

Appendix B

Agency Consultations and Correspondence

U.S. Department of
Homeland Security

United States
Coast Guard



Commandant
United States Coast Guard

2703 Martin Luther King Jr. Ave. SE STOP 7509
Washington, DC 20593-7509
Staff Symbol: CG-OES-4
Phone: (202) 372-1444
Fax: (202) 372-8382
Email: Curtis.E.Borland@uscg.mil

16613

OCT 17 2014

To: Agency Distribution

Subj: REQUEST FOR COMMENTS: LIBERTY NATURAL GAS LLC PORT AMBROSE
DEEPWATER PORT INTERIM DRAFT ENVIRONMENTAL IMPACT STATEMENT

Ref: Docket# USCG-2013-0363

Dear Federal Agency Representative:

Please find enclosed the Interim Draft Environmental Impact Statement (IDEIS) for the Liberty Natural Gas LLC Port Ambrose deepwater port license application for your review and comment.

As a cooperating agency in this matter, please conduct a preliminary review of the IDEIS and advise whether there are deficiencies that should be resolved prior to publication of the Notice of Availability of the Draft Environmental Impact Statement (Draft EIS) in the Federal Register. If you believe the document satisfies the requirements of your agency, please advise accordingly. Another opportunity to review and comment will be provided during the 45 day comment period that will follow publication of the Draft EIS.

Due to the strict application processing timetable set forth in the Deepwater Port Act, I request you provide your comments *electronically* using enclosure (1) (comment response matrix) or by other means not later than Monday, November 3, 2014 to Roddy.C.Bachman@uscg.mil and Bradley.K.McKitrick@uscg.mil. If we have not heard from your agency at the end of this interagency comment period, we will presume the document is satisfactory at this stage of its development and begin preparation of the Draft EIS.

If there are others within your organization who should also receive this, please forward as necessary. Additional copies of the IDEIS will be provided upon request.

Thank you for your assistance. If you have any questions, please contact Mr. Roddy Bachman (202) 372-1451 or Mr. Bradley McKitrick (202) 373-1443 of my staff.

Sincerely,

A handwritten signature in black ink, appearing to read "C. E. Borland".

C. E. BORLAND
Acting Chief, Deepwater Ports Standards Division
U.S. Coast Guard

Copy: Ms. Yvette Fields, MARAD

Enclosures: (1) Comment Response Matrix
(2) Agency Distribution List
(3) Interim Draft EIS

U.S. Department of
Homeland Security

United States
Coast Guard



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Email: Curtis.E.Borland@uscg.mil

16613

Dear Sir or Madam:

Please find enclosed the Draft Environmental Impact Statement (Draft EIS) for the Liberty Natural Gas LLC - Port Ambrose deepwater port license application for your review and comment. Your comments will be considered in the development of the Final EIS.

This Draft EIS, the license application, and other associated documents are available for viewing at the Federal Docket Management System website: <http://www.regulations.gov> under **docket number USCG-2013-0363**.

Comments and related information must reach the Docket Management Facility **on or before February 10, 2015**. Please submit your comments by only one of the following means:

1. By Mail: Docket Management Facility (USCG-2013-0363), U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590;
2. By Personal Delivery: To the address listed above (telephone (202) 366-9329);
3. By FAX: To the Docket Management Facility at (202) 493-2251;
4. Electronically: Through the Federal Docket Management System website: <http://www.regulations.gov> under docket number USCG-2013-0363.

Additionally, the U.S. Coast Guard and the Maritime Administration will hold an informational Open House and Public Meeting on Wednesday, January 7, 2015 in Jamaica, New York at the Hilton New York JFK Airport hotel and on Thursday, January 8, 2015 in Eatontown, New Jersey at the Sheraton Eatontown hotel. Each Open House will last one hour (4:30 p.m. – 5:30 p.m.); each Public Meeting is scheduled to begin at 6:00 p.m. and last a minimum of two hours. Written and oral comments will be accepted at both the Open House and Public Meeting. The events are open to the public and all interested parties are encouraged to attend.

Thank you for your interest in this proposed application. If you have any questions, please contact either Mr. Roddy Bachman at (202) 372-1451/Roddy.C.Bachman@uscg.mil; or Mr. Bradley McKitrick at (202) 372-1443/Bradley.K.McKitrick@uscg.mil

Sincerely,

A handwritten signature in black ink, appearing to read "C.E. Borland".

C.E. BORLAND

Acting Chief, Deepwater Ports Standards Division
U.S. Coast Guard

knowledgeable of trends or issues related to rail transit and bus transit safety. Along with their experience in the bus transit or rail transit industry, nominees will also be evaluated on factors including leadership and organizational skills, region of country represented, diversity characteristics, and balance of industry representation.

Each nomination should include the nominee's name and organizational affiliation, a cover letter describing the nominee's qualifications and interest in serving on the committee, a curriculum vitae or resume of the nominee's qualifications, and contact information including the nominee's name, address, phone number, fax number, and email address. Self-nominations are acceptable. FTA prefers electronic submissions for all applications to TRACS@dot.gov. Applications will also be accepted via U.S. mail at the address identified in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

In the near-term, FTA expects to nominate up to five (5) representatives from the transit bus safety community for immediate TRACS membership. In order to be considered for this round of appointments, applications should be submitted by August 30, 2013. Additionally, in order to fill any future vacancy that may arise, nominations from persons representing key constituencies affected by rail transit or bus transit safety requirements, as noted in section I above, will continue to be accepted after August 30, 2013.

The Secretary, in consultation with the FTA Administrator, will make the final decision regarding committee membership selections.

Issued on: June 19, 2013.

Peter Rogoff,
Administrator.

[FR Doc. 2013-15053 Filed 6-21-13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. USCG-2013-0363]

Deepwater Port License Application: Liberty Natural Gas LLC, Port Ambrose Deepwater Port

AGENCY: Maritime Administration,
Department of Transportation.

ACTION: Notice of Intent; Notice of
Public Meeting; Request for Comments.

SUMMARY: The Maritime Administration (MarAd), in coordination with the U.S. Coast Guard (USCG), will prepare an

environmental impact statement (EIS) as part of the environmental review of the Port Ambrose Deepwater Port License Application. The application describes an offshore natural gas deepwater port facility that would be located approximately 17 nautical miles southeast of Jones Beach, New York, 24 nautical miles east of Long Branch, New Jersey, and about 27 nautical miles from the entrance to New York Harbor in a water depth of approximately 103 feet. Publication of this notice begins a 30 day scoping process that will help identify and determine the scope of environmental issues to be addressed in the EIS. This notice requests public participation in the scoping process, provides information on how to participate, and announces informational open houses and public meetings in New York and New Jersey. Pursuant to the criteria provided in the Deepwater Port Act of 1974, as amended, 33 U.S.C. 1501 *et seq.* (the Act), both New Jersey and New York are the Adjacent Coastal States for this application.

DATES: There will be two public scoping meetings held in connection with the application. The first public meeting will be held in Long Beach, New York on July 9, 2013 from 6 p.m. to 8 p.m. The second public meeting will be held in Edison, New Jersey on July 10, 2013 from 6 p.m. to 8 p.m. Both public meetings will be preceded by an open house from 4:30 p.m. to 5:30 p.m.

Each of the public meetings may end later than the stated time, depending on the number of persons wishing to speak. Additionally, materials submitted in response to the request for comments on the license application must reach the Docket Management Facility as detailed below, by July 14, 2013.

ADDRESSES: The open house and public meeting in Long Beach, New York will be held at the Allegria Hotel, 80 West Broadway, Long Beach, New York 11561, phone 516-889-1300. Free street parking is available and the parking lot at the Long Island Railroad Long Beach Train Station near Park Place and Park Avenue approximately 1200 feet from the hotel is available from 5 p.m. to 5 a.m. In addition, there is free valet parking at the hotel for those that want and/or need to use this service. The open house and public meeting in Edison, New Jersey will be held at the New Jersey Convention and Exposition Center, 97 Sunfield Avenue, Edison, New Jersey 08837, phone 732-417-1400. Free parking is available at the center.

The license application, comments and associated documentation, and

Draft and Final EISs (when published) are available for viewing at the Federal Docket Management System (FDMS) Web site: <http://www.regulations.gov> under docket number USCG-2013-0363.

Docket submissions for USCG-2013-0363 should be addressed to: Department of Transportation, Docket Management Facility, West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

The Federal Docket Management Facility accepts hand-delivered submissions, and makes docket contents available for public inspection and copying at the above address between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Facility telephone number is 202-366-9329, the fax number is 202-493-2251, and the Web site for electronic submissions or for electronic access to docket contents is <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Roddy Bachman, U.S. Coast Guard, telephone: 202-372-1451, email: Roddy.C.Bachman@uscg.mil, or Tracey Ford, Maritime Administration, telephone: 202-366-0321, email: Tracey.Ford@dot.gov. For questions regarding viewing the Docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Meeting and Open House

You are invited to learn about the proposed deepwater port at any of the above informational open houses, and to comment at any of the above public meetings on environmental issues related to the proposed deepwater port. Your comments will help us identify and refine the scope of the environmental issues to be addressed in the EIS.

Speaker registration will be available at the door. Speakers at the public scoping meeting will be recognized in the following order: Elected officials, public agencies, individuals or groups in the sign-up order, and anyone else who wishes to speak.

In order to allow everyone a chance to speak at a public meeting, speaker time may be limited, meeting hours may be extended, or both. You must identify yourself, and any organization you represent, by name. Your remarks will be recorded or transcribed for inclusion in the public docket.

You may submit written material at a public meeting, either in lieu of or in addition to speaking. Written material

must include your name and address, and will be included in the public docket.

Public docket materials will be made available to the public on the Federal Docket Management Facility (see Request for Comments).

Public meeting locations are wheelchair-accessible. If you plan to attend an open house or public meeting, and need special assistance such as sign language interpretation or other reasonable accommodation, please notify the USCG (see **FOR FURTHER INFORMATION CONTACT**) at least 3 business days in advance. Include your contact information as well as information about your specific needs.

Request for Comments

We request public comments or other relevant information on environmental issues related to the proposed deepwater port. Note that the public meeting is not the only opportunity you have to comment. In addition to, or in lieu of attending a meeting, you can submit comments to the Federal Docket Management Facility during the public comment period (see **DATES**). We will consider all comments and material received during the comment period.

Submissions should include:

- Docket number USCG–2013–0363.
- Your name and address.

Submit comments or material using only one of the following methods:

- Electronic submission to the Federal Docket Management Facility, <http://www.regulations.gov>.

- Fax, mail, or hand delivery to the Federal Docket Management Facility (see **ADDRESSES**). Faxed or hand delivered submissions must be unbound, no larger than 8½ by 11 inches, and suitable for copying and electronic scanning. If you mail your submission and want to confirm it reaches the Facility, include a stamped, self-addressed postcard or envelope.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the FDMS Web site (<http://www.regulations.gov>), and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Use Notice that is available on the FDMS Web site, and the Department of Transportation Privacy Act Notice that appeared in the **Federal Register** on April 11, 2000 (65 FR 19477), see PRIVACY ACT. You may view docket submissions at the Department of Transportation Docket Management Facility or electronically on the FDMS Web site (see **ADDRESSES**).

Background

Information about deepwater ports, the statutes, and regulations governing their licensing including the application review process, and the receipt of the current application for the proposed Port Ambrose liquefied natural gas (LNG) Deepwater Port appears in the **Federal Register** on June 14, 2013, 78 FR 36014. The “Summary of the Application” from that publication is reprinted below for your convenience.

Consideration of a deepwater port license application includes review of the proposed deepwater port’s natural and human environmental impacts. The USCG is the lead agency for determining the scope of this review, and in this case USCG has determined that review must include preparation of an EIS. This notice of intent is required by 40 CFR 1501.7, and briefly describes the proposed action, possible alternatives, and our proposed scoping process. You can address any questions about the proposed action, the scoping process, or the EIS to the U.S. Coast Guard project manager identified in **FOR FURTHER INFORMATION CONTACT**.

Proposed Action and Alternatives

The proposed action requiring environmental review is the Federal licensing of the proposed deepwater port described in “Summary of the Application” below. The alternatives to licensing the proposed port are: (1) licensing with conditions (including conditions designed to mitigate environmental impact), or (2) denying the application, which for purposes of environmental review is the “no-action” alternative.

Scoping Process

Public scoping is an early and open process for identifying and determining the scope of issues to be addressed in the EIS. Scoping begins with this notice, continues through the public comment period (see **DATES**), and ends when the USCG has completed the following actions:

- Invites the participation of Federal, state, and local agencies, any affected Indian tribe, the applicant, and other interested persons;
- Determines the actions, alternatives, and impacts described in 40 CFR 1508.25;
- Identifies and eliminates, from detailed study, those issues that are not significant or that have been covered elsewhere;
- Allocates responsibility for preparing EIS components;
- Indicates any related environmental assessments or environmental impact statements that are not part of the EIS;

- Identifies other relevant environmental review and consultation requirements;

- Indicates the relationship between timing of the environmental review and other aspects of the application process; and

- At its discretion, exercises the options provided in 40 CFR 1501.7(b).

Once the scoping process is complete, the USCG will prepare a draft EIS in conjunction with MarAd. Also, MarAd will publish a **Federal Register** notice announcing public availability of the draft EIS. (If you want that notice to be sent to you, please contact the Coast Guard project manager identified in **FOR FURTHER INFORMATION CONTACT**.) You will have an opportunity to review and comment on the draft EIS. The USCG will consider those comments, and then prepare the final EIS. As with the draft EIS, we will announce the availability of the final EIS, and once again give you an opportunity for review and comment and include final public hearings as required by the Act.

Summary of the Application

Liberty Natural Gas, LLC is proposing to construct, own, and operate a liquefied natural gas (LNG) deepwater port, known as Port Ambrose, located in the New York Bight. The Port Ambrose facility will be located at a different proposed location and include a different design than the previous deepwater port license application submitted by Liberty Natural Gas, LLC in 2010. Port Ambrose would consist of two Submerged Turret Loading Buoys (STL Buoys) in Federal waters approximately 17 nautical miles southeast of Jones Beach, New York, approximately 24 nautical miles east of Long Branch, New Jersey, and about 27 nautical miles from the entrance to New York Harbor, in a water depth of approximately 103 feet.

LNG would be delivered from purpose-built LNG regasification vessels (LNGRVs), vaporized on site and delivered through the STL Buoys, flexible riser/umbilical, subsea manifold and lateral pipelines to a buried 19 nautical mile subsea Mainline connecting to the existing Transco Lower New York Bay Lateral in New York State waters approximately 2.2 nautical miles south of Long Beach, New York and 13 nautical miles east of New Jersey. The buoys would be lowered to rest on a landing pad when not in use and would also include a pile-anchored mooring array.

STL Buoy 1 is located at Latitude: 40°19'24.61" N and Longitude: 73°25'45.33" W. STL Buoy 2 is located at Latitude: 40°20'09.26" N and

Longitude 73°23'51.92" W. The Port components would fall in the following U.S. Outer Continental Shelf (OCS) lease blocks:

Buoy 1 (6708, 6709, 6758); Buoy 2 (6709); Lateral 1 (6708); Lateral 2 (6708, 6709); "Y" Assembly (6708); Mainline Pipeline (6708, 6658, 6657, 6607, 6606, 6556, 6555, 6554, 6504 and 6503).

The 145,000 cubic meter LNGRVs would have onboard closed-loop vaporization and metering and odorant capability. Each vessel will have three vaporization units capable of maximum send-out of 750 million standard cubic feet per day (MMscfd) (maximum pipeline system flow rate is 660 MMscfd with two buoys) with annual average expected to be 400 MMscfd. The LNGRVs have been designed to utilize a ballast water cooling system that will entirely re-circulate onboard the vessel during Port operations, eliminating vessel discharges associated with regasification while at the Port. Deliveries through Port Ambrose would be focused during peak demand winter and summer months and it is anticipated that approximately 45 deliveries will occur each year.

As proposed, the LNGRVs would access the port inbound from the Hudson Canyon to Ambrose Traffic Lane and depart via the Ambrose to Nantucket Traffic Lane. MarAd and USCG are aware that Port Ambrose falls within the proposed area of interest for the Long Island—New York City Offshore Wind Collaborative wind energy project. This project will be acknowledged and considered in the processing of the Port Ambrose application and National Environmental Policy Act (NEPA) analysis.

If approved, the majority of the port and pipeline construction and installation would occur in 2015, with commissioning in December 2015.

In addition, pipelines and structures such as the STL Buoy moorings may require permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act which are administered by the Army Corps of Engineers (USACE).

Port Ambrose may also require permits from the Environmental Protection Agency (EPA) pursuant to the provisions of the Clean Air Act, as amended, and the Clean Water Act, as amended.

The new pipeline will be included in the NEPA review as part of the deepwater port application process. The EPA and the USACE among others, are cooperating agencies and will assist in the NEPA process as described in 40 CFR 1501.6; may participate in the scoping meetings; and will incorporate

the EIS into their permitting processes. Comments sent to the EPA or USACE will also be incorporated into the DOT docket and EIS to ensure consistency with the NEPA Process.

Should a license be issued, the deepwater port would be designed, fabricated, constructed, commissioned, maintained, inspected, and operated in accordance with applicable codes and standards and with USCG oversight as regulated under Title 33, Code of Federal Regulations (CFR), subchapter NN-Deepwater Ports, parts 148, 149, and 150. This also includes waterways management and regulated navigation areas, maritime safety and security requirements, risk assessment, and compliance with domestic and international laws and regulations for vessels that may call on the port.

Privacy Act

The electronic form of all comments received into the FDMS can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). The DOT Privacy Act Statement can be viewed in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, pages 19477–78) or by visiting <http://www.regulations.gov>.

(Authority 49 CFR 1.93)

Dated: June 19, 2013.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–15008 Filed 6–21–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0117; Notice 2]

Mazda North American Operations, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition.

SUMMARY: Mazda North American Operations (MNAO),¹ on behalf of Mazda Motor Corporation of Hiroshima, Japan (Mazda),² has determined that certain Mazda brand motor vehicles manufactured between 2000 and 2012

¹ Mazda North American Operations is a U.S. company that manufactures and imports motor vehicles.

² Mazda Motor Corporation is a Japanese company that manufactures motor vehicles.

for sale or lease in Puerto Rico, do not fully comply with paragraph S4.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 225, *Child Restraint Anchorage Systems*. MNAO has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*, dated June 21, 2012.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, MNAO has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of MNAO's petition was published, with a 30-day public comment period, on September 28, 2012 in the **Federal Register** (77 FR 59703). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA–2012–0117."

Contact Information: For further information on this decision contact Mr. Ed Chan, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 493–0335.

Vehicles involved: Affected are approximately 60,509 Mazda brand motor vehicles manufactured between 2000 and 2012 for sale or lease in Puerto Rico.

Rule Text: Section § 4.1 of FMVSS No. 225 specifically states:

§ 4.1 Each Tether anchorage and each child restraint anchorage system installed, either voluntarily or pursuant to this standard, in any new vehicle manufactured on or after September 1, 1999, shall comply with the configuration, location, marking and strength requirements of this standard. The vehicle shall be delivered with written information, in English, on how to appropriately use those anchorages and systems.

Summary of MNAO's Analysis: MNAO explains that the noncompliance is that certain Mazda brand motor vehicles sold in Puerto Rico were not delivered with instructions on the use of child restraint tether anchorages written in English. The instructions were only provided in Spanish as part of the Spanish language version of the vehicle owner's manual provided with the vehicles at first sale. No English version owner's manuals were provided.

MNAO believes that while the noncompliant motor vehicles were delivered to Puerto Rico with owner's manuals written only in the Spanish language and did not include a written



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK, NEW YORK 10278-0090

MAR 10 2015

Regulatory Branch

SUBJECT: Permit Application Number NAN-2012-01138-EHA by Liberty Natural Gas LLC for Port Ambrose Deepwater Port, Draft Environmental Impact Statement

Roddy Bachman
U.S. Coast Guard
2703 Martin Luther King Jr. Ave SE STOP 7509
Washington, DC 20593-7506

Dear Mr. Bachman:

This is in response to your December 2014 Draft Environmental Impact Statement (DEIS). As a cooperating agency, the New York District U.S. Army Corps of Engineers (Corps) has completed our review of the DEIS for the proposed construction of two submerged turret loading buoys located approximately 19 miles off the coast of New York, south/southeast of Jones Beach and 31 miles from the entrance to New York Harbor in federal waters. The deepwater port would connect via a new 23 mile long, 26 inch diameter offshore pipeline to the existing Transco Pipeline in New York state waters approximately 2 miles south of Long Beach.

We have the following comments on the DEIS:

At this time, we have made the following determination regarding the necessary burial depth for the proposed pipeline in the open-water anchorage area: Based upon the "Offshore Electrical Cable Burial for Wind Farms; State of the Art, Standards and Guidance & Acceptable Burial Depths, Separation Distances and Sand Wave Effect" prepared for the Bureau of Ocean Energy, Management, Regulation & Enforcement-Department of the Interior, by Malcolm Sharples, P.E. dated November 2011, the proposed pipeline in the open-water anchorage area must be buried at a minimum of 15 feet below the existing substrate. In all other areas outside the open-water anchorage area, the pipeline burial depths will remain as previously proposed, 4 feet below the existing substrate.

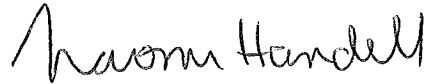
The project Purpose and Need requires additional analysis and justification based on the lack of natural gas imports into the United States in recent times and increased domestic natural gas production.

The FEIS must contain or be contingent upon written approval from the NOAA Fisheries Service (NOAA-FS) for compliance with Section 7 of the Endangered Species Act; NOAA-FS approval for compliance with the Magnuson-Stevens Fishery Conservation and Management Act; and the New York State Historic Preservation Office and any

applicable Tribal Historic Preservation Offices for compliance with Section 106 of the National Historic Preservation Act.

Thank you for the opportunity to comment as a cooperating agency. If you have any questions, need additional information, or wish to discuss any of the above issues in more detail, please contact the undersigned, at 917-790-8523.

Sincerely,

A handwritten signature in black ink, reading "Naomi Handell". The signature is written in a cursive style with a large, stylized initial 'N'.

Naomi Handell
Project Manager
Eastern Section

cc: Bradley McKittrick, USCG
Jason Goldstein, Liberty Natural Gas
Lingard Knutson, USEPA



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
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Regulatory Branch

MAR 10 2015

SUBJECT: Permit Application Number NAN-2012-01138-EHA by Liberty Natural Gas for Port Ambrose Deepwater Port

Jason Goldstein
Liberty Natural Gas, LLC
45 Rockefeller Plaza, Suite 2000
New York, New York 10111

Dear Mr. Goldstein:

We are currently reviewing your company's application for a Department of the Army permit to construct a deepwater port and associated pipeline in the Atlantic Ocean, off the coast of New York. At this time, we have made the following determination regarding the necessary burial depth for the proposed pipeline in the open-water anchorage area:

Based upon the "Offshore Electrical Cable Burial for Wind Farms; State of the Art, Standards and Guidance & Acceptable Burial Depths, Separation Distances and Sand Wave Effect" prepared for the Bureau of Ocean Energy, Management, Regulation & Enforcement-Department of the Interior, by Malcolm Sharples, P.E. dated November 2011, the proposed pipeline in the open-water anchorage area must be buried at a minimum of 15 feet below the existing substrate. In all other areas outside the open-water anchorage area, the pipeline burial depths will remain as previously proposed, 4 feet below the existing substrate.

Please send this office revised plan and cross-section view drawings reflecting the change described above. Upon receipt of the requested information, we will resume processing of your application. If any questions should arise concerning this matter, please the undersigned, at (917) 790-8523.

Sincerely,


Naomi Handell
Project Manager
Eastern Section

Cc: Frank Smolenski, Sr. Frank.Smolenski@aecom.com
Roddy Bachman, USCG Roddy.C.Bachman@uscg.mil



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
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NEW YORK, NEW YORK 10278-0090

Regulatory Branch

NAN 13 2014

SUBJECT: Permit Application Number NAN-2012-01138-EHA by Liberty Natural Gas for Port Ambrose Deepwater Port

Jason Goldstein
Liberty Natural Gas, LLC
45 Rockefeller Plaza, Suite 2000
New York, New York 10111

Dear Mr. Goldstein:

As discussed during our February 6, 2014 meeting, at this time we offer the following comments on your pre-application project drawings entitled "Liberty Natural Gas, LLC New York Bight" prepared by Project Consulting Services Engineering, P.C. and dated January 20, 2014:

Where pipeline is to be installed within an open-water anchorage area, a minimum of 7 feet of bottom cover is required. The bottom coverage is measured from the top of the disturbance caused by the utility installation (the top of the outermost layer of the utility crossing plus any fill material or mats placed above the utility).

Note that these comments pertain only to the proposed pipeline in the anchorage area based on the above referenced meeting and drawings. Upon receipt and review of your Department of the Army permit application package, we will provide additional comments. If any questions should arise concerning this matter, please the undersigned, at (917) 790-8523.

Sincerely,

Naomi Handell
Project Manager
Eastern Section

Cc: Frank Smolenski, Sr. Frank.Smolenski@aecom.com
Roddy Bachman, USCG Roddy.C.Bachman@uscg.mil



AECOM
30 Knightsbridge Road Suite 520
Piscataway NJ 08854

732.564.3611 tel
732.369.0122 fax

United States Army Corps of Engineers
New York District – Eastern Permits Section
ATTN: Ms. Naomi Handell
Jacob K. Javits Federal Building
26 Federal Plaza, Room 1937
New York, NY 10278-0090

April 24, 2015

**Subject: Port Ambrose Project
Deepwater Port and Offshore Mainline
Comment Request Letter April 14, 2015
NAN-2012-01138-EHA**

Dear Ms. Handell:

On behalf of our client, Liberty Natural Gas, LLC, (Liberty), we offer responses to the following excerpted Corps requests for comments:

4. The United States Coast Guard requires that any issued Department of the Army permit contain the following special conditions:

(A) The permittee shall submit the project's construction details via email (Date of Submission, Name, Phone Number, Email Address for Project Contact, Company Name, Type of Work, Waterway and Location (where work will be done), Latitude & Longitude of Work Area (degrees, minutes, thousandths of seconds), Work Start and Stop Dates and Hours of Operation, Equipment on Scene, Passing Arrangements/Time to Move Vessel to Not Impede Navigation, VHF Radio Channel Monitored, Disposal Site (if used), and NOAA Chart Number for the Area) to the US Coast Guard, First Coast Guard District so that the form arrives 14 calendar days before starting in-water construction operations, for publication in the Coast Guard's Local Notice to Mariners. The form should be e-mailed to: LNM@uscg.mil , or sent to 24-Hour FAX: (617) 223-8291.

(B) The permittee shall notify the National Oceanic and Atmospheric Administration's Office of Coast Survey of the construction project's completion and shall provide as-built details so they may initiate appropriate Chart and Coast Pilot corrections to be submitted online at: <http://ocsddata.ncd.noaa.gov/idrs/discrepancy.aspx>.

(C) Present a brief to the Harbor Operations Energy Subcommittee at Coast Guard Sector NY prior to beginning construction. This presentation must include a detailed description and proposed project timeline. Work impacting the Approaches to New York Traffic Separation Scheme must be kept to a minimum and may be delayed due to the needs of shipping. An additional brief may be required at a Port of NY/NJ Harbor Operations Full Committee meeting.

Response: Liberty acknowledges the Coast Guard's requirement for three special conditions to the Corps permit and agrees it will comply with each of these, specifically:

- a) Submit the Project's construction details via email to the First Coast Guard District at least 14 calendar days before starting in-water construction operations;
- b) Notify NOAA's Office of Coast Survey of the Project's construction completion and provide as-built details; and

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- c) Present a brief to the Harbor Operations Energy Subcommittee at Coast Guard Sector NY and potentially at the Port of NY/NJ Harbor Operations Full Committee meeting. Further, Liberty understands that work impacting the Traffic Separation Scheme must be kept to the minimum and may be delayed due to the needs of shipping.

5. Letters from Judith Kramer, Anonymous, Joe Ganun and Margaret Schab with various concerns/comments/objections.

Response: Liberty acknowledges the Corps' receipt of comments from the above individuals. Liberty believes that these comments have been sufficiently addressed in the Draft EIS (see attached table). However, similar comments have been submitted to the project's Federal Docket and will be further reviewed as the Coast Guard completes the Final EIS.

Thank you for your ongoing attention to this application. We look forward to continuing to work with you. Please feel free to contact me at 732.564.3611 if you have any questions or if there is a need for additional information.

Sincerely,



Frank J. Smolenski
Project Director, Environment
Frank.Smolenski@aecom.com

Enclosures

cc:
w/ enc.

Mr. Roddy C. Bachman, US Coast Guard
Mr. Bradley K. McKittrick, US Coast Guard
Mr. Kevin Kispert, NYS Dept of Environmental Conservation
Mr. Jason M. Goldstein, Liberty Natural Gas LLC.
Mr. Daron Threet, Esq. – Holland & Knight

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Summary Table - Environmental Consequences of the Port Ambrose Project

DEIS Section 4.0 Topic	DEIS Conclusion
4.1 Water Resources	"Construction, operation, and decommissioning of the proposed Project would have no significant impact on the physical oceanography within the ROI. Impact that does occur would be minor and localized." (p4-2)
4.2 Biological Resources	"Construction of the proposed Project would result in short-term, minor, adverse impacts on biological resources from routine discharges, increased vessel traffic, noise, lighting, marine debris, bottom sediment disturbance, hydrostatic testing, and inadvertent spills. Short-term, potentially moderate to potentially major, adverse impacts on non-threatened and non-endangered marine mammals during construction would result from marine noise from the proposed Mainline installation and STL Buoy anchoring. Operation of the proposed Project would result in long-term, minor to moderate, adverse impacts on biological resources from increased vessel traffic, noise, lighting, marine debris, routine discharges, LNG spills, inadvertent spills, bottom sediment disturbance, marine facilities and proposed Mainline presence, and seawater intake (impingement and entrainment). Decommissioning of the proposed Project would result in short-term, minor, adverse impacts on biological resources from routine discharges, increased vessel traffic, noise, lighting, marine debris, inadvertent spills, and bottom sediment disturbance. Such impacts would be similar to those described for construction. Construction, operation, and decommissioning of the proposed Project would have no significant impact on the commercial, recreational, ecological, or scientific importance of any biological resource, nor is it expected to cause any measurable change in population size or distribution for any species in the ROI. Impact that does occur would be minor to moderate and localized." (p4-15)
4.3 Threatened and Endangered Marine Mammals, Sea Turtles, Fish, and Birds	"Construction of the proposed Project would result in short-term, minor, adverse impacts on threatened and endangered marine species from routine discharges, increased vessel traffic, noise, lighting, marine debris, bottom sediment disturbance, entanglement, and inadvertent spills. Short-term, potentially moderate to potentially major, adverse impacts on threatened and endangered marine mammals during construction would result from marine noise from proposed Mainline installation and STL Buoy anchoring. Operation of the proposed Project would result in long-term, minor to moderate, adverse impacts on threatened and endangered marine species from increased vessel traffic, noise, lighting, marine debris, routine discharges, LNG spills, inadvertent spills, bottom sediment disturbance, and proposed Project facilities and Mainline presence. Although a permanent impact on approximately 3.2 acres of seafloor would be expected in the area of the proposed Port facilities due to buoy placement, impacts beyond the permanent footprint of the proposed Project would be anticipated to be short-term and minor. Short-

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	term, minor, adverse impacts on biological resources during decommissioning would result from routine discharges, increased vessel traffic, noise, lighting, marine debris, inadvertent spills, and bottom sediment disturbance. Such impacts would be similar to those described for construction." (p4-62)
4.4 Essential Fish Habitat	"Construction, operation, and decommissioning of the proposed Project would have no significant impact on EFH within the ROI. Impact that does occur would be highly localized, direct impacts within the footprint of the proposed Project ranging from temporary to long-term on the habitat and associated prey species for the duration of activities. However, since the ROI represents only a very small portion of this type of available offshore benthic and water column EFH in the New York Bight, only a commensurately small portion of available EFH would be potentially exposed to adverse impacts." (p4-96)
4.5 Geologic Resources	"Construction, operation, and decommissioning of the proposed Project would not be expected to impact any mineral or paleontological resources, increase the risk associated with any geological hazards (landslides, seismicity, and liquefaction), or alter sediment composition or structure. (p4-100)
4.6 Cultural Resources	"Construction of the proposed Project has the potential to impact submerged cultural resources in the APE; however, studies completed within the proposed Port facilities and in state waters concluded that there are not likely to be any potentially significant cultural resources in these areas. Additional analysis is required to determine the significance of potential cultural resources identified during review of remote sensing data collected within the portion of the APE in federal waters. Operation of the proposed Project would have no direct or indirect impacts on cultural resources since no new areas of seafloor would be impacted by operational activities. Decommissioning of the proposed Project would not be expected to result in impacts on submerged cultural resources provided that anchor handling plans and avoidance plans are implemented to avoid all high probability targets, shipwrecks, and paleochannels." (p4-104)
4.7 Ocean Uses, Land Uses, Recreation, and Visual Resources	"Construction of the proposed Project would result in short-term, localized, and minor impacts on ocean uses, recreation, and visual resources. Construction of the proposed Project would have no significant impact on land uses as the proposed onshore sites have a history of extensive industrial use. Operation of the proposed Project would result in minor and localized impacts due to enforcement of the Safety Zone, No Anchoring Areas (NAAs), and the Area to be Avoided (ATBA). Decommissioning of the proposed Project would result in

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	similar impacts on those expected during construction; however, impacts would be of a lesser extent in both duration and significance.” (p4-106)
4.8 Socioeconomics	“Construction of the proposed Project would result in short-term, localized, adverse, and reversible impacts to offshore economic conditions; however, impacts on onshore economic conditions would be short-term, moderate, and beneficial. Operation of the proposed Project would result in negligible, long-term, adverse impacts on offshore economic conditions; however, impacts on onshore economic conditions would be long-term, minor and beneficial. Decommissioning of the proposed Project would produce similar disturbance impacts as previously described for construction activities with adverse impacts on offshore economics conditions and beneficial impacts on onshore economic conditions.” (p4-116)
4.9 Transportation	“Construction and decommissioning of the proposed Project would result in minor, short-term disturbances to both the regional transportation network and navigation through the open waters off the coasts of New York and New Jersey. No long-term impacts are anticipated to occur to onshore or offshore transportation during operation and maintenance of the proposed Project.” (p4-126)
4.10 Air Quality	“Construction of the proposed Project would produce air emissions from engines associated with marine vessels, compressor generators, and cranes, as well as other construction activities including welding. Operation of the proposed Project would produce air emissions from two primary sources, two marine boilers and two dual-fuel generator engines. Combustion sources and storage tanks would also result in air emissions from the LNGRV during operation of the proposed Project. Decommissioning of the proposed Project would result in comparable emissions to those described for the construction process. Construction, operation, and decommissioning of the proposed Project would not cause or contribute to an exceedance of ambient air quality standards.” (p4-129)
4.11 Noise	“Construction of the proposed Project would result in an incremental increase in onshore sound level; however, impacts would be short-term and are not expected to be significant. All sound sources from the construction phase of the proposed Project are considered to have a minor impact on species of marine mammals, turtles, and fish; however, impacts are expected to be short-term and “harassment” (TTS) for all species is expected to be minor. Operation of the proposed Project would result in negligible noise impacts on onshore NSAs due to the

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	<p>distance from shore. Additional trips made by the support vessel would be within existing navigation channels and the noise produced would not exceed that of existing vessel traffic. Construction of the proposed Project would have insignificant impacts on species of marine mammals, turtles, and fish relative to the “harm” criteria (PTS), as the greatest noise impact of underwater sound (use of driven pilings as a mooring anchoring system) has been removed from the proposed Project scope. Decommissioning of the proposed Project would result in similar impacts to those from the construction and operation phases of the proposed Project.” (p4-159)</p>
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Source: *Draft Environmental Impact Statement for the Port Ambrose Project Deepwater Port Application; Section 4.0 Environmental Consequences of the Proposed Action and Alternatives* (USCG 2014)



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

AUG -8 2013

Department of Transportation
Docket Management Facility
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue SE.
Washington, DC 20590-0001

Re: Port Ambrose Deepwater Port Notice of Intent; Docket# USCG-2013-0363

We have reviewed the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the Port Ambrose Deepwater Port. Under the current proposal, Liberty Natural Gas, LLC proposes to construct, own and operate a deepwater port and its attendant liquefied natural gas (LNG) terminal in the New York Bight, approximately 17 nautical miles southeast of Jones Beach, New York and 24 nautical miles east of Long Branch, New Jersey. The proposed facility features two Submerged Turret LoadingTM buoy systems (STL Buoy) which would receive natural gas released from purpose-built LNG regassification vessels (LNGRVs) and subsequently introduce it into the existing Transco Lateral for distribution to customers onshore. The lateral pipeline facilities lie approximately 2.2 nautical miles south of Long Beach, New York and 13 nautical miles east of Sandy Hook, New Jersey. The proposed LNG carriers would deliver, on average, 400 million standard cubic feet of natural gas per day (MMscfd) and would use recirculation ballast water cooling systems, eliminating vessel discharges from vaporization. The Port Ambrose facilities are estimated to be receiving approximately 45 deliveries annually.

Project Setting

The New York Bight, a subset of the larger Mid-Atlantic Bight portion of the Northwest Atlantic Ocean, lies at the interface of an immense and interconnected system of open ocean waters, adjacent coastlands, estuarine embayments, and extensive upland watersheds. The extensive habitat complex of the New York Bight provides critical habitat values and functions (i.e., migratory corridors and breeding/spawning, nursery, overwintering, and foraging grounds) for a wide variety of fish and wildlife resources. While some species occur in the New York Bight as full time residents, many are occasional or seasonal transients or highly migratory species. In recognition of these uses, essential fish habitat has been designated throughout the New York Bight and thus, the Port Ambrose study area for a wide variety of federally managed fishery resources.

The immediate project vicinity is used for a variety of purposes ranging from fishing and marine transportation, to providing utility transmission corridors and recreation opportunities. The New York State Department of Environmental Conservation manages and maintains several successful artificial reef sites nearby, including several within or adjacent to the proposed Port Ambrose site. These reefs are visited actively by birders, recreational fishers and commercial harvesters who obtain access via private vessel, party boat charters or other watercraft hailing from docks and ports in the New York/New Jersey area. Given the important ecological values and functions that the local habitats provide for fish and wildlife, as well as the important socio-economic and



recreational services that the area provides to the human community, it will be vital for the EIS to evaluate fully any reasonably foreseeable direct, indirect, or cumulative effects associated with construction and use of the Deepwater Port facilities. We are concerned that the preliminary information is too reliant on data of opportunity or generic regional characterizations of historic species assemblages to be useful for supporting the necessary evaluations for site selection and preferred alternative identification.

Pertinent Regulatory Authorities

The statutes which set forth our mutual responsibilities under the Magnuson Stevens Fishery Conservation and Management Act (MSFCMA), the Fish and Wildlife Coordination Act (FWCA), the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA) have already been presented in our completeness review comments dated October 17, 2012. These statutes collectively provide the framework and authority for our involvement in evaluating potential impacts to fish, wildlife, and their habitats which arise from a wide range of water resource development projects and other human activities.

General Comments

As stated in our October 17, 2012 comments, the EIS should provide sufficient data, studies, analyses, and preliminary determinations in order for us to complete the necessary coordination and meet our mutual regulatory obligations in a timely manner. We note that the baseline for some of these determinations and evaluations has changed since Liberty's 2010 application and the process established for that review must be updated accordingly to suffice for the Port Ambrose application. For instance, certain project details have been revised: five distinct population segments (DPSs) of Atlantic sturgeon (*Acipenser oxyrinchus*) have been listed under the ESA (New York Bight, Chesapeake Bay, South Atlantic and Carolina DPSs are listed as endangered, while the Gulf of Maine DPS is listed as threatened (77 FR 5880; 77 FR 5914; February 6, 2012). In addition, living aquatic resource populations inhabiting or visiting the area have not remained static. Accordingly, the current effort must be tailored to reflect the current proposal and local habitat or natural resource population conditions. We strongly suggest that all data gaps and issues of concern that were raised in our completeness review comments, including the need to collect more appropriate or representative ichthyoplankton and benthic samples, should be completed and the results incorporated in the draft EIS prior to its being made available for public review and comment. These more comprehensive findings also should be used explicitly to support the rationale used to select or reject particular system or design alternatives; to explain how impacts would be avoided and minimized to the extent practicable; and also to substantiate why the project proponents consider their proposed mitigation strategies reasonable compensation for losses or harm that accrues during construction and over the life of the project.

In addition to the themes that we raised previously, it is important to acknowledge that climate change has risen to heightened importance in the wake of significant storms in the New York/New Jersey region. Most recently, Hurricane Irene, Tropical Storm Lee, and Super Storm Sandy created significant local damage and spawned major natural disasters in nearby coastal areas. The EIS should consider how changes in sea level, habitat use and local species assemblages are likely to unfold during the life of the project and what their consequences might be.

Magnuson-Stevens Fishery Conservation and Management Act

As described in our October 17, 2012, letter, we are concerned with the potential effects to these species and habitats from the proposed construction, operation, maintenance, repair, and eventual decommissioning of the Port Ambrose LNG terminal. These concerns include, but are not limited to: benthic habitat disturbances; loss of fishery resources and prey through entrainment or as a consequence of thermal impacts; and a variety of other direct, indirect and cumulative impacts that would accompany project development and operations. As you are aware, the MSFCMA requires federal agencies to consult with the Secretary of Commerce, through NOAA's National Marine Fisheries Service, with respect to "any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat (EFH) identified under this Act." 16 U.S.C. § 1855(b)(2). The statute defines EFH as "those waters and substrates necessary to fish spawning, breeding, feeding or growth to maturity." 16 U.S.C. § 1853(a)(7) and § 1802(10). Our regulations further define EFH adding, among other things, that "'necessary' means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem." 50 C.F.R. §600.10.

The USCG/MARAD must consult with us pursuant to section 305(b)(2) of the MSFCMA on "all actions or proposed actions authorized, funded or undertaken" that may adversely affect EFH. Adverse effects to EFH are defined in our regulations as "any impact that reduces the quality or quantity of EFH." The regulations state:

- An adverse effect may include direct or indirect physical, chemical or biological alterations of the water or substrate and any loss of, or injury to, benthic organisms, prey species and their habitat and other ecosystems components, if such modifications reduce the quality and/or quantity of EFH. Adverse effects to EFH may result from action occurring within EFH or outside EFH and may include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions. 50 C.F.R. 600.810(a).

The regulations at 50 C.F.R. 600.920 set forth the consultation process that will allow us to make a determination of this project's effects on EFH and provide conservation recommendations to the USCG/MARAD on actions that would adversely affect such habitat pursuant to section 305(b)(4)(A) of the MSFCMA. To initiate an EFH consultation, you must submit an EFH assessment to us. Required components of an EFH assessment include "a description of the action; and analysis of the potential adverse effects of the action on EFH and the managed species; the federal agency's conclusions regarding the effects of the action on EFH; and the proposed mitigation, if applicable." See 50 C.F.R. §600.920(e)(3). Should the project result in substantial adverse impacts to EFH, and expanded EFH consultation may be necessary. See §600.920(i). In the event of an expanded EFH consultation, we may encourage the USCG/MARAD to include additional information in the EFH assessment such as results on on-site inspections, views of recognized experts, a review of pertinent literature, an analysis of alternatives and any other relevant information. See 50 C.F.R. §600.920(e)(4). Finally depending on the degree and type of habitat impact, compensatory mitigation may be necessary to offset permanent and temporary effects of the project.

Documentation made available for consideration refers to the proposed project area as being contained within multiple "10-minute by 10-minute EFH blocks." We presume that such reference stems from some of the material that appears in the NMFS Northeast Region's webpage in the section entitled *Guide to Essential Fish Habitat Designations in the Northeastern United States*. To clarify, the guide is intended only as a quick reference to determine the species and life stages for which EFH is most likely to be designated in a particular area. In order to determine local EFH designations, it is necessary to consult the actual EFH descriptions, habitat preferences and life history parameters provided in the *Guide to EFH Descriptions* for each species. In some cases, it also may be necessary to refer to the more extensive information provided in the actual designation documents and current Fishery Management Plans. After you have made any necessary corrections to the EFH list for this project, and before you proceed with preparing an EFH assessment, we suggest that you first coordinate with us to ensure that the list of designations is complete and that we mutually agree that the nature and scope of issues that you plan to include in the EFH assessment will adequately present and analyze the direct, indirect, and cumulative effects of the project both during its construction and in the interim until it is decommissioned.

Fish and Wildlife Coordination Act

The FWCA provides authority for our involvement in evaluating impacts to fish and wildlife from proposed water resource development projects and other human activities that may affect waters of the United States. The FWCA specifically requires that wildlife conservation be given equal consideration to other features of water resource development programs through planning, development, maintenance and coordination of wildlife conservation and rehabilitation. Wildlife and wildlife resources are defined by the Act to include: birds, fish, mammals and all other classes of wild animals and all types of aquatic and land vegetation upon which such wildlife dependent. These consultation and coordination activities are intended to prevent loss or damage to fish and wildlife resources and to provide appropriate measures to mitigate adverse impacts associated with proposed human activities.

While many of the impacts that would accrue to federally managed fishery resources under the MSFCMA also would accrue to FWCA species, it is important to note that the interests of some species would not be represented adequately by relying on the EFH assessment alone. For instance, lobsters and crabs do not have an appropriate surrogate among the federally managed fishery resources that have EFH designated in the project vicinity and their needs and those of other non-represented species should be discussed at length in this section. Similarly, the behaviors and habitat needs of diadromous and estuary-dependent fishes may not be represented by a discussion surrounding marine fishes. The discussion for FWCA species should be designed around an ecological guild model that uses locally important species to evaluate the project impacts to organisms or populations associated with the various trophic levels and life history strategies exhibited by FWCA species known to occupy the project site as residents or transients. Focus should be on issues surrounding particular species, life history stages, or habitat components that would be most susceptible to the various potential impacts.

Endangered Species Act

The following ESA listed species under our jurisdiction are likely to be found in the New York Bight, and thus, the Port Ambrose project area:

- North Atlantic right whale (*Eubalaena glacialis*);
- Humpback whale (*Megaptera novaeangliae*);
- Fin whale (*Balaenoptera physalus*);
- Northwest Atlantic Ocean Distinct Population Segment (DPS) of loggerhead sea turtle (*Caretta caretta*);
- Kemp's ridley sea turtle (*Leptodochelys kempi*);
- Green sea turtle (*Chelonia mydas*);
- Leatherback sea turtle (*Dermochelys coriacea*); and
- Atlantic sturgeon (*Acipenser oxyrinchus*), including all 5 DPSs (New York Bight; Carolina, South Atlantic, Chesapeake Bay, and Gulf of Maine).

As provided in our October 17, 2012, letter, we are concerned with the potential effects to these species from the proposed construction, operation (including maintenance and repair), and decommissioning of the Port Ambrose LNG terminal. These concerns include, but are not limited to, large whale ship strike/vessel collision; listed species interactions with project equipment; alteration of the physical environment and essential habitat; phytoplankton/zooplankton entrainment via seawater withdrawal; and acoustic disturbance that could result in injury or harassment to our listed species (see October 17, 2012, letter for further details). The EIS needs to consider and provide a thorough analysis of these issues and their direct, indirect, and cumulative effects to our listed species and their habitat.

Additionally, as you know, section 7 of the Endangered Species Act (16 U.S.C. § 1536(a)(2)) requires Federal agencies to consult with the Secretary of Commerce, through NOAA, to insure that "any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or adversely modify or destroy [designated] critical habitat . . ." See also 50 C.F.R. part 402. As ESA listed species under our jurisdiction will occur in the project area, and effects to these species are likely, consultation under the ESA will be necessary (See 50 C.F.R. § 402.14). As such, further coordination will be necessary with our Protected Resources Division to meet your obligations under section 7 of the ESA. Additionally, the information and analysis presented in your EIS will be essential in our future coordination and consultation on the proposed action.

Marine Mammal Protection Act

As provided in our October 17, 2012, letter, under the MMPA, the Secretary of Commerce, through NOAA, may authorize the take of small numbers of marine mammals incidental to otherwise lawful activities provided that the takings would have no more than a negligible impact on those marine mammal species and would not have an unmitigatable adverse impact on the availability of those species for subsistence uses. An activity has a "negligible impact" on a species or stock when it is determined that total taking by the activity is not reasonably likely to reduce annual rates of survival or annual recruitment (i.e., offspring survival, birth rates). Most incidental take authorizations to date have involved the incidental harassment of marine mammals by sound. In the event that any aspect of the project will result in a marine mammal "take," you or the project applicant would be responsible for obtaining an incidental take authorization in advance from us. See 16 U.S.C. §§ 1371(a)(5)(A) and (a)(5)(D).

Comments on Defined Project Elements

Project Alternatives Discussion

The National Environmental Policy Act (NEPA) requires that the environmental analysis includes a robust discussion of system, design, conservation, and other alternatives that could be used to address the stated project need. While the supplemental information provided for our consideration includes many appropriate sections for review, alternatives to be considered should be fully supported. In addition, the relative advantages and disadvantages for each alternative are presented to explain how each option fulfills the overarching goals of avoiding, minimizing, and mitigating the long and short term impacts as fully as practicable. This section also should describe why the proposed site is being considered over other regional alternatives. It will be critically important for the project proponents to justify why this location is the most suitable and least environmentally damaging alternative available and why other potential sites in the New York Bight were rejected. We specifically note that such an advanced stance on project siting is premature given that the initial ichthyoplankton, benthic invertebrate, and other natural resource inventories do not adequately characterize local populations.

Complete Project

The DEIS should include appropriate descriptive narrative for all project elements, including temporarily disturbed parcels on land that are necessary for staging or fabrication. The discussion should assess all direct, indirect and cumulative impacts associated with the project from the initial construction, to those that would accrue while the facilities are in operation, are being repaired or maintained, and ultimately are decommissioned. This will allow us to better understand the scope of the proposed action and the USCG/MARAD's analysis.

Water Intakes and Discharges

The information regarding the amount of water that would be used to hydrostatically test the pipe and details concerning the manner and conditions under which it would be drawn should be stated as clearly and thoroughly as possible. As the water is drawn, it will entrain various life stages of managed resources or their prey which will die. The EIS should include details on any and all methods or measures that would be observed to prevent entrainment and associated mortality. Closed cycle systems would greatly reduce the amount of water that would have to be drawn in for cooling and supplying the regassification vessel's "domestic" water supply. Similarly, the vessels will have intakes for receiving ballast water as the LNG is returned to a gaseous state and introduced into the lateral through the STL Buoy.

Water discharges related to the hydrostatic testing may include biocides. This discussion should include a complete explanation of what substances would be permitted for use, information on how the water would be rendered safe for discharge into the water way or otherwise disposed, and any other related information. Discharges from the tankers' regassification cooling systems would be thermally enriched and create a plume emanating from the discharge point. Mitigation, including foregoing use of open systems or requiring diffusers or other design features, could be used to mitigate thermal impacts or largely avoid them. We note that excess heat can kill or harm susceptible organisms by exceeding the temperatures they are capable of withstanding, and stimulating spikes in local biological oxygen demand. The thermal plumes associated with the regassification process also can create artificial thermal refuges that could entice semitropical fishes and

sea turtles to remain in the project past the period in the fall when they normally migrate to southerly waters, rendering them susceptible to hypothermia-related mortality. These and other threats should be included in the evaluation and considered in selecting the eventual preferred project alternative.

Whether they are physically entrained or adversely affected by thermally enriched discharges, organisms lost to the system are no longer available to recruit to fisheries, and thus, could result in fewer potential prey being available for survivors and other adverse impacts. The area engulfed in the plume potentially could include one or more of the NYSDEC reef sites or natural areas that provide similar functions. Hydrologic modeling is necessary to establish the likely areal extent and behavior of the plume under various conditions to understand whether the reefs or other sensitive areas in the general vicinity would be adversely affected by the thermal plume. The EIS should include all appropriate and practicable means of avoiding and minimizing these impacts.

Need for Enhanced Site Characteristics Studies

As noted in our completeness review comments, more robust studies are necessary to understand the species assemblage that is present at the proposed site alternatives in order to facilitate evaluation of project impacts on those biota. Since there is a seasonal component associated with different species and life stages, we suggest that any survey conducted for this project must include appropriately designed and sited investigations that provide both qualitative and quantitative information regarding the species present, their relative abundance, and other pertinent information.

Fisheries Information

We recommend that the applicant provide additional fisheries information, including information on the economic impacts of a potential fisheries exclusion zone. It is important to use current and accurate data and information in determining the potential impacts on historical, current and future fishing activities. The proposed DWP site is in area known as Cholera Bank. This area and the adjacent Middle Ground, Angler Bank, East of Cholera and Mussel grounds are all important recreational and commercial fishing grounds. The applicant should discuss the economic impacts caused by the creation of an exclusion zone that would preclude commercial and recreational fishing activity in the area. We recommend a discussion of ecological effects to fishery resources as a result of the exclusion of commercial fishing operations be included. For example, issues such as displacement of existing commercial fisheries into other areas resulting in increased fishing pressure to other locations need to be addressed.

We also recommend that you include in the NEPA document a comprehensive discussion of the socio-economic impacts resulting from the potential exclusion of commercial and recreational fishing operations within the vicinity of the DWP area. The NEPA document should also evaluate the regional impacts on fishing ports resulting from the potential closure of these fishing grounds due to LNG operations.

Cumulative Effects

We recommend that the applicant more clearly describe the relationship between the project and other projects in the area. The applicant notes the lease application by the New York Power Au-

thority to develop an offshore wind facility in close proximity to the proposed DWP location. While the applicant suggests the potential for compatible uses between the two facilities, the Port Ambrose project should consider cumulative effects of the two projects on fish habitat, fishery resources and commercial and recreational fishing activities.

Conclusion

Thank you for the opportunity to provide these comments in response to the NOI to prepare an EIS for the proposed Port Ambrose LNG Deepwater Port. We look forward to working with you as the project is better defined and the preferred alternatives are identified. If you have any questions regarding our habitat area of responsibility, please contact me at 978-281-9131. For ESA listed species issues, please contact Danielle Palmer of our Protected Resources Division (928-281-9468).

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Boelke', written in a cursive style.

Christopher Boelke
Field Office Supervisor
For Habitat Conservation

cc Colonel Paul Owen, ACOE
Jodi MacDonald, ACOE
Mark Prescott, USCG
Eric Schradling, USFWS
David Stillwell, USFWS
Steven Sinkevich, USFWS
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U.S. Department of
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United States
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16613

AUG 08 2013

Mr. Mark Murray-Brown
Protected Resources Division
National Marine Fisheries Service
Northeast Regional Office, Protected Resource Office
55 Great Republic Drive
Gloucester MA 01930

Subject: REQUEST FOR INFORMAL CONSULTATION - LIBERTY NATURAL GAS LLC
DEEPWATER PORT (USCG-2013-0363)

Dear Mr. Murray-Brown:

On September 28, 2012, Liberty Natural Gas LLC (Liberty) submitted an application to own, construct, and operate a deepwater port (DWP). The proposed port would be located in Federal waters approximately 17 nautical miles southeast of Jones Beach, New York, approximately 24 nautical miles east of Long Branch, New Jersey, and about 27 nautical miles from the entrance to New York Harbor, in a water depth of approximately 103 feet.

Liquefied Natural Gas (LNG) would be delivered from purpose-built LNG regasification vessels, vaporized on site, and delivered through two Submerged Turret Loading Buoys (STL Buoys), flexible riser/umbilical, subsea manifold and lateral pipelines to a buried 19 nautical mile subsea pipeline connecting to the existing Transco Lower New York Bay Lateral in New York State waters approximately 2.2 nautical miles south of Long Beach, New York and 13 nautical miles east of New Jersey. The buoys would be lowered to rest on a landing pad when not in use and would also include a pile-anchored mooring array. The Liberty deepwater port license application is available for viewing and downloading from the Federal Docket Management Facility site at <http://www.regulations.gov>, Docket Number "USCG-2013-0363".

As stated in our Notice of Intent, dated June 24, 2013, the U.S. Coast Guard (USCG) and Maritime Administration (MARAD) are preparing an Environmental Impact Statement (EIS) as part of the processing of Liberty's license application. Past experience in analyzing the construction and operation of similarly situated deepwater ports leads us to make a preliminary conclusion that construction and operation of the Port Ambrose deepwater port may affect, but is not likely to adversely affect, species listed as threatened or endangered, or designated critical habitat, under the Endangered Species Act (ESA). However, we intend to fully analyze these matters in the EIS and look forward to your assistance in validating the data that is gathered.¹ The EIS is being prepared in accordance with the provisions of the Deepwater Port Act of 1974, as amended (33 U.S.C. §1501 *et seq.*); the National Environmental Policy Act (42 U.S.C. § 4321 *et seq.*), as implemented by the Council on Environmental Quality regulations (40 C.F.R. §§

¹ If the analysis shows that there may be an adverse affect on listed species or critical habitat, the EIS would be submitted as our Biological Assessment/Evaluation of the proposed action to initiate formal consultation.

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Subj: REQUEST FOR INFORMAL CONSULTATION – 16613
LIBERTY NATURAL GAS LLC DEEPWATER PORT (USCG-2013-0363)

1500-1508); USCG Commandant Instruction M16475.1D (National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts); Department of Homeland Security Directive 023-01 Environmental Planning program; and other appropriate and applicable regulations.

In accordance with Section 7 of the ESA, as amended, we seek to informally consult with your office regarding the presence of federally-listed threatened and endangered species and critical habitat that may be affected by the Proposed Action. To fully assess the potential impacts associated with the Proposed Action, we request you provide us with a list of threatened and endangered species and designated critical habitat that occurs within the Region of Influence (ROI).

We will also consult with the U.S. Fish and Wildlife Service regarding the presence of federally-listed threatened and endangered species and designated critical habitat under their jurisdiction and with the NOAA Fisheries Habitat Conservation Division regarding essential fish habitat (EFH)

Tetra Tech is providing the USCG with technical assistance in preparation of the EIS. The USCG has designated Tetra Tech as the non-Federal representative for consultation purposes for this action.

Thank you for your assistance; we look forward to working with your office on this project. If you have any questions about the proposed Liberty application, or about the EIS, you may contact Mr. Brad McKitrick of my staff at (202) 372-1443.

Sincerely,



C.E. Borland
Acting Chief,
Deepwater Ports Standards Division
U.S. Coast Guard
By direction



Tracey L. Ford
Acting Director, Office of Deepwater
Ports and Offshore Activities
Maritime Administration

Copy: Mr. John Bullard, Regional Administrator, NMFS Northeast Region

DEPARTMENT OF
TRANSPORTATION
COCKET OPERATIONS

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

AUG 12 2013

Tracey L. Ford, Acting Director
Office of Deepwater Ports and
Offshore Activities
Maritime Administration
1200 New Jersey Avenue SE, W23-323 (MAR-530)
Washington, DC 20590

C.E. Borland, Acting Chief
Deepwater Ports Standards Division
United States Coast Guard
2100 Second Street, SW
Washington, DC 20593-0001

Re: Liberty Natural Gas, LLC Deepwater Port (USCG-2013-0363)

Dear Mr. Borland and Ms. Ford,

This is in response to your letter dated August 8, 2013, regarding Liberty Natural Gas, LLC's, proposal to own, construct, and operate a deepwater port (Port Ambrose) in the Atlantic Ocean, approximately 17 nautical miles southeast of Jones Beach, New York; approximately 24 nautical miles east of Long Branch, New Jersey; and approximately 27 nautical miles from the entrance to New York Harbor. You have requested information on the presence of species listed by NOAA's National Marine Fisheries Service (NMFS) in the project area.

The following Endangered Species Act (ESA) listed species under NOAA's NMFS are likely to occur in the proposed project area:

Species

Status

Gulf of Maine Distinct Population Segment (DPS)
of Atlantic Sturgeon (*Acipenser oxyrinchus oxyrinchus*)

Threatened

New York Bight DPS of Atlantic sturgeon

Endangered

Chesapeake Bay DPS of Atlantic sturgeon

Endangered

Carolina DPS of Atlantic sturgeon

Endangered

South Atlantic DPS of Atlantic sturgeon

Endangered

Northwest Atlantic Ocean DPS of loggerhead
sea turtle (*Caretta caretta*)

Threatened

Kemp's ridley sea turtle (*Lepidochelys kempi*)

Endangered

Green sea turtle (*Chelonia mydas*)

Endangered



Leatherback sea turtle (<i>Dermochelys coriacea</i>)	Endangered
North Atlantic Right Whales (<i>Eubalaena glacialis</i>)	Endangered
Humpback whale (<i>Megaptera novaeangliae</i>)	Endangered
Fin whale (<i>Balaenoptera physalus</i>)	Endangered

Listed species of Atlantic sturgeon may be present in the project area year round, while listed species of sea turtles are known to be present in the waters of New York and New Jersey from May through November, with the highest concentration of sea turtles present from June to October. The federally endangered North Atlantic right, humpback, and fin whales, are seasonally present in the waters off New York and New Jersey. These species of whales use the nearshore, coastal waters of the Atlantic Ocean as a migration route to and from calving and foraging grounds. Humpback and fin whales primarily occur in the waters of New York and New Jersey during the spring, summer and fall months, while the North Atlantic right whale primarily occur in these waters from November 1 through April 30, although transient right whales can be present outside of this time frame. Additionally, during the November 1 through April 30 timeframe, a seasonal management area (SMA) has been designated for North Atlantic right whales within a 20-nautical mile radius (as measured seaward from the COLREGS lines) of the entrance to the Ports of New York and New Jersey (located at 40°29'42.2"N and 073°55'57.6"W). Vessels 65 feet or greater in overall length transiting through the SMA at this time are restricted to 10 knots or less to protect right whales in their migratory routes.¹ As the proposed project will cross waters of the SMA, please be aware of these regulations should your proposed project occur during the months of November 1 through April 30.

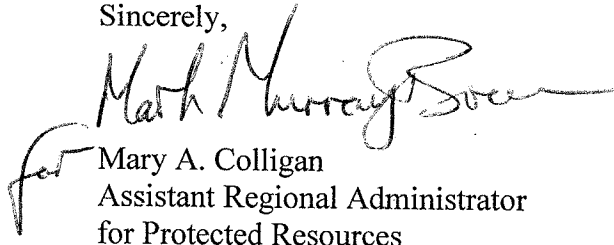
Conclusion

As listed species are likely to be present in the action area of this project, a consultation, pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, may be necessary. As you may know, any discretionary federal action, such as the approval or funding of a project by a Federal agency, that may affect a listed species must undergo consultation pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended. If the proposed project has the potential to affect listed species and it is being approved, permitted or funded by a Federal agency, the lead Federal agency, or their designated non-Federal representative, is responsible for determining whether the proposed action is likely to affect this species. The Federal agency would submit their determination along with justification for their determination and a request for concurrence, to the attention of the Endangered Species Coordinator, NMFS Northeast Regional Office, Protected Resources Division, 55 Great Republic Drive, Gloucester, MA 01930. After reviewing this information, NMFS would then be able to conduct a consultation under Section 7 of the

¹ For more information on this SMA, see http://www.nmfs.noaa.gov/pr/pdfs/shipstrike/compliance_guide.pdf.

ESA. Should you have any questions about these comments or about the Section 7 consultation process in general, please contact Danielle Palmer (978-282-8468; Danielle.Palmer@noaa.gov).

Sincerely,


for Mary A. Colligan
Assistant Regional Administrator
for Protected Resources

EC: Palmer, NMFS/PRD
Rusanowsky, Boelke NMFS/HCD

File Code: Sec 7 technical assistance 2013-- Port Ambrose LNG

DEPARTMENT OF
TRANSPORTATION
WASHINGTON, DC 20590-0001



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930-2276

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MAR 13 2015

Department of Transportation
Docket Management Facility
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue SE.
Washington, DC 20590-0001

**Re: Port Ambrose Deepwater Port Draft Environmental Impact Statement; Docket#
USCG-2013-0363**

Dear Sir or Madam,

We have reviewed the Draft Environmental Impact Statement (DEIS), and Essential Fish Habitat (EFH) Assessment for the Port Ambrose Deepwater Port. Under the current proposal, Liberty Natural Gas, LLC proposes to construct, own and operate a deepwater port and its attendant liquefied natural gas (LNG) terminal in the New York Bight, approximately 17 nautical miles southeast of Jones Beach, New York and 24 nautical miles east of Long Branch, New Jersey. The proposed facility features two Submerged Turret LoadingTM buoy systems (STL Buoy) which would receive natural gas released from purpose-built LNG re-gassification vessels (LNGRVs) and subsequently introduce it into the existing Transco Lateral for distribution to customers onshore. The lateral pipeline facilities lie approximately 2.2 nautical miles south of Long Beach, New York and 13 nautical miles east of Sandy Hook, New Jersey. The proposed LNG carriers would deliver, on average, 400 million standard cubic feet of natural gas per day (MMscfd) and would use recirculation ballast water cooling systems, eliminating vessel discharges from vaporization. It is estimated that the Port Ambrose facilities will receive approximately 45 deliveries annually.

Project Setting

The New York Bight, a subset of the larger Mid-Atlantic Bight portion of the Northwest Atlantic Ocean, lies at the interface of an immense and interconnected system of open ocean waters, adjacent coastlands, estuarine embayments, and extensive upland watersheds. The extensive habitat complex of the New York Bight provides valuable habitat values and functions (i.e., migratory corridors and breeding/spawning, nursery, overwintering, and foraging grounds) for a wide variety of fishery resources. While some species occur in the New York Bight as full time residents, many are occasional or seasonal transients or highly migratory species. In recognition of these uses, essential fish habitat (EFH) has been designated throughout the New York Bight and thus, the Port Ambrose study area.



The immediate project vicinity is used for a variety of purposes ranging from fishing and marine transportation, to providing utility transmission corridors and recreation opportunities. The New York State Department of Environmental Conservation manages and maintains several successful artificial reef sites nearby, including several within or adjacent to the proposed Port Ambrose site. These reefs are visited actively by birders, recreational fishers and commercial harvesters who obtain access via private vessel, party boat charters or other watercraft hailing from docks and ports in the New York/New Jersey area. Given the important ecological values and functions that the local habitats provide for fish and wildlife, as well as the important socio-economic and recreational services that the area provides to the human community, it will be vital to evaluate fully any reasonably foreseeable direct, indirect, or cumulative effects associated with construction and use of the Deepwater Port (DWP) facilities in the DEIS. We are concerned that the DEIS is too reliant on data of opportunity or generic regional characterizations of historic species assemblages to be useful for supporting the necessary evaluations for site selection and preferred alternative identification. We enclose for your reference previous correspondence from our office on this project, namely: Comments on the Completeness of the Application (October 17, 2012), Comments on the Notice of Intent (NOI) for the EIS (August 8, 2013), and Technical Assistance regarding species listed by us under the Endangered Species Act (ESA) (August 12, 2013).

Comments on the DEIS

In our response to the NOI (see enclosed), we outlined a number of information needs and concerns. While some of those concerns were addressed in the DEIS, there are some specific issues that were not adequately addressed in the DEIS. The items listed below are outstanding information needs that are necessary to evaluate fully the proposed project.

- 1) ***Purpose and Need*** - The project need is not defined fully and the need for the project has not been adequately demonstrated. The document mentions a growing demand for natural gas but does not provide information to support that this demand exists or its magnitude. The applicant should present documentation that shows the proposed service area has a need or a committed customer lined up. It is also not apparent that the project must be a DWP. Since LNG facilities are not water-dependent facilities, the applicant should demonstrate why the project needs to be constructed in the ocean and why land-based alternatives are not viable.
- 2) ***Project Alternatives Discussion*** - This section should describe why the proposed site is being considered over other regional alternatives. It is important for the project proponents to justify why this location is the most suitable and least environmentally damaging alternative available and why other potential sites in the New York Bight were rejected. We specifically note that such an advanced stance on project siting may be premature given that the initial ichthyoplankton, benthic invertebrate, and other natural resource inventories do not adequately characterize local populations.
- 3) ***Data gaps*** - The data gaps and issues of concern that were raised in our completeness review comments, including the need to collect site specific benthic sampling, should be completed and the results incorporated in the FEIS. These more comprehensive findings should be used to support the rationale for selecting or rejecting particular system or

design alternatives; to explain how impacts would be avoided and minimized to the extent practicable; and to substantiate why the project proponents consider their proposed mitigation strategies reasonable compensation for losses or harm that would accrue during construction and over the life of the project.

- 4) ***Environmental Consequences*** - The FEIS should consider how changes in sea level, habitat use and local species assemblages are likely to unfold during the life of the project and what the consequences might be.
- 5) ***Water Intakes and Discharges*** - Hydrologic modeling is necessary to establish the likely areal extent and behavior of the thermal plume under various conditions to understand whether the reefs or other sensitive resources in the vicinity of the project would be adversely affected by the discharge of heated water. The FEIS should include all appropriate and practicable means of avoiding and minimizing these impacts.
- 6) ***Need for Enhanced Site Characteristics Studies*** - As noted in our completeness review comments, more robust studies are necessary to understand the species assemblage that is present at the proposed site alternatives in order to facilitate evaluation of project impacts on those biota, including fisheries and benthic resources.
- 7) ***Fisheries Information*** - The DEIS discusses some of the economic impacts that could result from the creation of an exclusion zone around the DWP facility. This exclusion zone would preclude commercial and recreational fishing activity in the area. We recommend a more detailed discussion of ecological effects to fishery resources as a result of the exclusion of recreational and commercial fishing operations be included in the FEIS as well. For example, issues such as displacement of existing commercial fisheries into other areas resulting in increased fishing pressure to other locations need to be addressed. We also recommend the FEIS include a comprehensive discussion of the socio-economic impacts resulting from the potential exclusion of commercial and recreational fishing operations within the vicinity of the DWP area. The FEIS should evaluate the regional impacts on fishing ports resulting from the potential closure of these fishing grounds due to LNG operations.
- 8) ***Cumulative Effects*** - We recommend the FEIS clearly describe the relationship between the project and other projects in the area. The cumulative impact assessment within the DEIS mentions the proposed wind farm under consideration by the Bureau of Ocean Energy Management (BOEM) but does not expand upon the concerns BOEM expressed regarding potential conflicts between the two proposed projects. The cumulative effects on recreational and commercial fisheries within the exclusion zone, the no anchor zone and area to avoid should be evaluated. The FEIS should also discuss how these closures may affect nearby fishing grounds known as Cholera Bank. In addition, if the BOEM project also includes exclusion areas, this should be evaluated in addition to the exclusion areas of this project. While the applicant suggests the potential for compatible uses between the two facilities, the FEIS should consider cumulative effects of the two projects on fish habitat, fishery resources and commercial and recreational fishing activities.

- 9) **Mitigation** – The FEIS should include a discussion of compensatory mitigation for unavoidable permanent and temporary impacts resulting from the construction and operation of the pipeline and the DWP. We recommend that the applicant analyze the anticipated effects to and anticipated recovery times of marine fishery resources and habitats as a result of the proposed project, and propose compensatory mitigation for impacts that cannot be avoided. The compensatory mitigation plan should include temporal losses of living marine resources as a result of the proposed project. The development of the compensatory mitigation plan should be coordinated with Federal and state resource agencies.
- 10) **Monitoring** - A biological monitoring plan that contains components for both construction and operation of the DWP should be developed. Construction monitoring should focus on the recovery of the substrate from impacts of installing the pipeline and flowlines. Operational monitoring should address impacts on ichthyoplankton and zooplankton resources from the proposed seawater intake. The monitoring plan should be linked to a plan for adaptive management of the LNG facility to allow operational or mechanical modifications to prevent or minimize adverse impacts on the marine environment. The development of the biological monitoring plan should be coordinated with Federal and state resource agencies.

Pertinent Regulatory Authorities

We presented the statutes which set forth our mutual responsibilities under the Magnuson Stevens Fishery Conservation and Management Act (MSA), the Fish and Wildlife Coordination Act (FWCA), the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA) in our October 17, 2012, completeness review comments and again in our August 8, 2013 comments on the NOI. These statutes collectively provide the framework and authority for our involvement in evaluating potential impacts to fish, wildlife, and their habitats which arise from a wide range of water resource development projects and other human activities.

Magnuson Stevens Fishery Conservation and Management Act

The MSA requires federal agencies such as the Department of Transportation to consult with us on any action or proposed action authorized, funded, or undertaken by the agency that may adversely affect EFH identified under the MSA. Because the construction and operation of an offshore LNG facility will have an adverse effect on EFH, this process is guided by the requirements of our EFH regulation at 50 CFR 600.905, which mandates the preparation of EFH assessments, lists the required contents of EFH assessments, and generally outlines each agency's obligations in this consultation procedure.

Essential Fish Habitat

EFH regulations allow Federal agencies to incorporate an EFH assessment into documents prepared for other purposes including National Environmental Policy Act (NEPA) documents such as this DEIS, provided certain conditions are met. If an EFH assessment is contained in another document, it must be clearly identified as an EFH assessment and include all of the following mandatory elements including: (i) a description of the action, (ii) an analysis of the potential adverse effects of the action on EFH and the managed species, (iii) the Federal agency's

conclusions regarding the effects of the action on EFH, and (iv) proposed mitigation, if applicable.

The EFH assessment contained in the DEIS does not adequately assess all of the potential direct, indirect, individual and cumulative adverse effects of the proposed project on federally managed species and their EFH, and does not contain sufficient site specific information to allow a full and complete analysis of impacts or to support assertions made in the document. For example, the DEIS states that impacts to plankton, eggs and larvae have been minimized because densities of these resources are lower in the project area. However, no site specific information or studies have been provided to support this statement. The DEIS also attempts to quantify entrainment mortality during the three phases of the project. However, while the equivalent adult values appear to be relatively minor, this method focuses solely on finfish survival to maturity and does not account for ecosystem and food web benefits derived from the egg and larvae of these species as a source of prey. In order to fully account for adverse impacts resulting from the facility, we recommend the assessment include an analysis of ecosystem and food web benefits foregone as a result of operational impacts on eggs and larvae.

The EFH assessment does not adequately assess impacts to the benthic community and fisheries. Further discussion needs to be provided on all impacts for all phases of the project. The evaluation should include changes in water quality, changes in water temperature, ballast water intake and discharges, mortality of a resource due to fill placement, daily operational impacts and their cumulative impacts over time. All impacts discussed in the DEIS are considered in a very general manner and do not address site specific effects. The applicant should clearly identify and summarize all the project impacts in all phases, separating out temporary from permanent impacts to federally managed species and their EFH, including prey species and water quality effects. The term "temporary" should be well defined and anticipated recovery times along with supporting data should be presented. These impacts should be assessed over both a short and long term scale.

The following data is necessary to assess impacts and develop appropriate EFH conservation recommendations for both the DWP site and the pipeline alignment.

- 1) The applicant should develop and implement a site specific benthic sampling program which includes sampling during all phases of development. This should include site specific pre-construction data collection to assist in the development of conservation recommendations.
- 2) A fisheries monitoring plan should be prepared and implemented for all phases of development. This plan should include site specific pre-construction data collection to assist in the development of conservation recommendations.
- 3) Geo-technical surveys should be completed and presented in the EFH assessment in order to evaluate the impacts of the various anchor types.

In addition, associated onshore activities may require consultation if those activities have the potential to impact EFH. The DEIS states that because existing marine terminals are being considered for the onshore work, further consultation would not be necessary, but this may not

be the case. If any alterations or expansions to existing facilities are needed for this project, the proposed work should be evaluated in the FEIS and included in a revised EFH assessment.

In order to fully evaluate all of the project's potential effects to EFH, a revised EFH assessment should be provided to us for review. This assessment can be submitted as a stand-alone document or included as a component of the FEIS. We suggest a stand-alone document be developed once the necessary site specific information is obtained. This will reduce delays in completing the EFH consultation once the FEIS is released. It will also allow for the incorporation of any necessary EFH conservation recommendations into the final NEPA document. We will continue consultation once a revised EFH assessment is received and will provide conservation recommendations at that time. It is important that the applicant clearly demonstrate steps to avoid, minimize, and mitigate for impacts to EFH and their prey species in the revised EFH assessment.

Marine Mammal Protection Act

Under the MMPA, the Secretary of Commerce, through NOAA, may authorize the take of small numbers of marine mammals incidental to otherwise lawful activities provided that the takings would have no more than a negligible impact on those marine mammal species and would not have an unmitigatable adverse impact on the availability of those species for subsistence uses. An activity has a "negligible impact" on a species or stock when it is determined that total taking by the activity is not reasonably likely to reduce annual rates of survival or annual recruitment (i.e., offspring survival, birth rates). Incidental harassment of marine mammals can result from exposure to underwater sound. In the event that any aspect of the project will result in a marine mammal "take," you or the project applicant would be responsible for obtaining an incidental take authorization in advance from us (16 U.S.C. 1371(a)(5)(A) and (a)(5)(D)). We encourage the applicant to work with the Permits and Conservation Division in our Office of Protected Resources to discuss the potential need for MMPA authorizations. Please contact Jolie Harrison with any questions regarding the need for this authorization (Jolie.Harrison@noaa.gov or 301-427-8401).

Endangered Species Act

Section 7 of the Endangered Species Act (16 U.S.C. § 1536(a)(2)) requires Federal agencies to consult with the Secretary of Commerce, through NMFS, to insure that "any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or adversely modify or destroy [designated] critical habitat . . ." (50 C.F.R. part 402). We provided technical assistance regarding the presence of species listed by us under the ESA on August 12, 2013 (see enclosed). On December 19, 2014, the Coast Guard and MARAD requested concurrence with their determination that the proposed action may affect, but is not likely to adversely affect federally listed threatened and endangered species pursuant to section 7 of the ESA. You intend the DEIS to serve as the biological assessment (BA) for purposes of the section 7 consultation. As noted in the DEIS, and discussed in correspondence from us dated August 12, 2013, several ESA listed species of whales, sea turtles and Atlantic sturgeon are at least seasonally present in the project area.

Vessel Traffic

Construction vessels, support vessels, and LNGRVs associated with the construction and operation of the DWP have the potential to affect listed species due to increases in the frequency of vessel transits and changes in vessel traffic patterns. The DEIS has characterized the potential effect of vessel traffic on marine mammals as direct and potentially significant as it relates to overall effects to local whale populations, and the effect to sea turtles as direct but negligible as it relates to overall effects to local populations. The applicant also indicates that a vessel collision with a sea turtle, whale, or sturgeon is unlikely.

Although available data indicate that ship strikes on marine mammals and sea turtles are rare relative to the total density of vessel traffic, the available data represent a minimum of reported interactions between ships and marine species. Many ship strike events are not recognized or reported. We have identified vessel collision as one of two primary sources of human-caused mortality to the North Atlantic right whale, and based on the precarious status of this population, We have promulgated regulations to reduce the risk of vessel collisions on right whales (73 FR 60173). The waters off New York are used by right whales moving between northern and southern waters, and a high percentage of the remaining known population may be seasonally present in these waters. Although the proposed DWP has not been sited within primary right whale foraging habitat, LNGRVs in transit to and from the DWP may pass through critical habitat (i.e., the Great South Channel), and whales may migrate near the DWP while entering and exiting important feeding grounds. Additionally, humpback and fin whales may use the waters adjacent to the proposed DWP site. We recommend that the FEIS provide a more robust evaluation of potential turtle and marine mammal/vessel interactions associated with the proposed terminal. An appropriate risk analysis should include factors such as total increase in vessel traffic associated with the project, vessel specifications, species densities, and likely vessel traffic patterns from point of origin to destination.

The DEIS includes proposed vessel strike avoidance requirements for the vessels associated with the project. We agree that the applicant should adopt vessel strike avoidance requirements; however, we believe that a more robust risk analysis is necessary for us to determine appropriate operational measures to minimize the impact of vessel traffic on marine mammals and sea turtles.

Vessel traffic can also affect listed species through noise disturbance. The DEIS has proposed minimization measures to reduce the impact of noise on listed species during construction activities, but does not include a robust analysis of the approximate underwater noise levels and frequencies generated by vessel activities. In the absence of such information, we cannot determine the potential behavioral effects to listed species.

Pile Driving

Studies have shown that pile driving can result in fish injury and mortality¹. Sea turtles and marine mammals with gas-filled cavities, such as swim bladders, lungs, sinuses, and hearing

¹ Abbott, R., and E. Bing-Sawyer. 2002. Assessment of Pile Driving Impacts on the Sacramento Blackfish (*Orthodon microlepidotus*). Draft report prepared for CALTRANS. October 10, 2002.

structures may also be at risk. The sound waves produced by some pile driving projects result in fish kills and injuries, and the trauma to the fish are similar to the trauma occurring during explosions. As with explosions, the potential effects of pile driving on animals is likely proportional to body mass, such that smaller animals are more susceptible than larger animals. Although there is some potential for injury to listed species, the most likely effect is behavioral response to the sound emitted from pile driving that may disrupt feeding, mating, or resting individuals.

Of the two methods of pile driving, vibratory and impact, impact driving results in a greater acoustic impact on the surrounding environment. During pile driving, the size and maximum operating energy level of the hammer, the size and length of the piles, substrate type, water depth, and other environmental variables may affect the level of sound produced from the impact hammering. Modeling of the frequencies and decibel levels produced by pile driving should be completed to estimate potential effects to listed species in the project area. In addition to considering the potential for physiological effects (e.g., injury, mortality), the DEIS should also consider the potential for behavioral effects. The magnitude of these effects would be dependent on the decibel levels and duration of the pile driving activity as well as the behavior of listed species in the project area.

The applicant has not identified blasting as a project component associated with installation of the pipeline. In the event that surveys indicate blasting is necessary, the applicant will need to analyze the associated impacts. Blasting can result in similar noise and pressure wave impacts as those associated with pile driving.

At this time, we are not able to determine whether pile driving activities associated with this project may affect any ESA listed species. We recommend the applicant include additional analysis of impact pile driving, and provide a more detailed description of all pile driving activities. For example, the size and number of piles, installation technique (impact or vibratory), and time required to complete pile driving (# of days/hours). The FEIS should include a table that summarizes this information and includes the criteria and modelled distances to our “take” thresholds for injury and behavioral harassment. The applicant should develop plans to minimize noise effects to listed species. These may include time of year restrictions, the use of bubble curtains, establishment of zones of impact, use of protected species observers, or alternative pile driving and pipeline installation methods.

Ballast Water Intake

Although the applicant is proposing a closed-loop system for LNG regasification, marine organisms and their prey may become impinged or entrained during ballast water intake. The DEIS has not adequately addressed the impacts of ballast water intake in the vicinity of the unloading buoys on listed species. The FEIS must consider the risk of impingement of sturgeon and sea turtles at the intakes. Also, because the ballast water intake can impinge and entrain small organisms, including plankton, the FEIS should analyze the potential effects to listed species as a result of changes in the abundance or availability of prey species.

Habitat Alteration

Additional analyses of the potential effects of noise pollution, marine debris, discharges, and changes in water quality and/or temperature resulting from spills, turbidity during construction, and wastewater discharges are necessary. Such effects could potentially alter sturgeon, sea turtle, and marine mammal foraging success, health, or result in temporary abandonment of the affected area. For example, the release of fuel oils may have a direct effect on plankton. We recommend that the potential effects on plankton be further analyzed, based on the importance of plankton as prey species for whales in the vicinity of the project location.

Summary of ESA Recommendation:

In summary, additional analysis is necessary in order for the assessment of effects to ESA listed species and their habitats to be complete. Necessary additional analysis includes the following:

- A more robust risk analysis of vessel traffic patterns and vessel operations associated with the project and the potential to impact listed whales, sea turtles and sturgeon through various direct and indirect means (e.g., noise disturbance, behavioral disruption, strikes).
- Additional details on the method and specifications for pile-driving activity, as well as an analysis of the intensity and propagation of underwater noise and pressure waves generated by the pile-driving.
- If blasting is necessary, provide additional information and impact analysis for any blasting that will take place during installation of the pipeline or other construction activities.
- Address the impact of ballast water intake on sea turtles if such will be necessary at the project site.
- Address indirect effects of marine debris, changes in water quality and changes in temperature on sea turtle and marine mammal habitat and prey species, particularly plankton.

This additional information will assist in evaluating the potential impacts of the proposed DWP on endangered and threatened species listed by us under the ESA.

We recognize that it may be difficult to model and assess these impacts on listed species and their prey based on the limited amount of data currently available. We are available to assist the applicant in identifying relevant studies and monitoring protocols that may be of use in preparing the recommended analyses.

ESA Section 7 Consultation

Section 7 consultation is required when an action “may affect” listed species and/or critical habitat. Consultation may be concluded informally if the action “may affect, but is not likely to adversely affect” listed species and/or critical habitat. A “not likely to adversely affect”

conclusion is appropriate when effects are wholly beneficial, insignificant or discountable. As explained in the joint U.S. Fish and Wildlife and NMFS Section 7 Handbook, “beneficial effects are contemporaneous positive effects without any adverse effects. Insignificant effects relate to the size of the impact and should never reach the scale where take occurs. Discountable effects are those extremely unlikely to occur. Based on best judgment, a person would not: (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur.”

You have requested our concurrence with your determination that the proposed action is not likely to adversely affect any ESA listed species under our jurisdiction. At this time, it appears the available analysis may not support this conclusion. For example, in the DEIS, you conclude the proposed action may affect, but is not likely to adversely affect endangered whales. These effects could result from the construction, operation, and decommissioning of the port, including acoustic effects and increased risk of ship strike due to the increased vessel traffic associated with the port. We remain concerned that acoustic disturbance during construction, operation, and decommissioning of the LNG terminal could result in the injury or harassment to listed marine mammals. For example, although the DEIS states that suction anchors were the preferred method for installing buoys, impact piling driving may be necessary depending on geotechnical conditions at the site. However, the DEIS did not include information about the effects of impact pile driving as an alternative anchoring method. In addition, the DEIS did not include an estimate of how many marine mammals could be exposed to underwater noise generated during the different phases of the project. In order to move forward with the section 7 consultation, you must address the information needs outlined above. Additionally, we encourage you to continue working with us and the applicant to develop measures that could minimize effects of the proposed action.

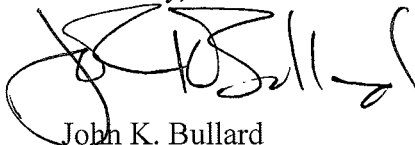
Although MARAD/USCG has the option to continue discussing appropriate mitigation through the informal consultation process, it may not be possible to mitigate all adverse effects to a discountable or insignificant level and thus conclude consultation informally. As such, we recommend that formal consultation be initiated as soon as possible to prevent further delays under the DWPA. As provided in 50 CFR §402.14(c), formal consultation must be initiated by MARAD/USCG in writing. The letter should be addressed to John Bullard, Regional Administrator, and should include the information described in 50 CFR §402.14(c). In addition, this letter should include a statement designating a lead action agency for purposes of section 7 consultation. Upon receipt of the initiation package, we will determine within 30 days whether the package is complete (i.e. all information necessary to conduct consultation has been provided); however, in consideration of the timelines, we will attempt to expedite this determination. We have 135 days from the date of initiation of formal consultation (i.e., the date that NMFS received a complete initiation package) to deliver a Biological Opinion and Incidental Take Statement, as appropriate, to the lead Federal agency.

Conclusion

Thank you for the opportunity to provide these comments in response to the DEIS for the proposed Port Ambrose LNG Deepwater Port. We look forward to working with you as you prepare the FEIS and a revised EFH assessment. If you have any questions regarding Essential

Fish Habitat, please contact Melissa Alvarez, PWS of our Habitat Conservation Division Melissa.Alvarez@noaa.gov or (732) 872-3116). For ESA listed species issues, please contact Brian Hopper of our Protected Resources Division (Brian.D.Hopper@noaa.gov or (410) 573-4592).

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Bullard', with a large, stylized initial 'J' and a long horizontal stroke extending to the right.

John K. Bullard
Regional Administrator

Enclosures: (3) Correspondence from NOAA Fisheries dated August 12, 2013; August 8 2013 and October 17, 2012.

Cc L. Chiarella, M. Alvarez – F/GAR4
K. Damon-Randall, B. Hopper - F/GAR3
Casey - GCNE
J. Creed - NOAA PPI
L. Knutson - EPA Region II
J. McDonald - NY ACOE
E. Schradling - FWS Pleasantville
S. Sinkevich - FWS Islip



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

AUG 12 2013

Tracey L. Ford, Acting Director
Office of Deepwater Ports and
Offshore Activities
Maritime Administration
1200 New Jersey Avenue SE, W23-323 (MAR-530)
Washington, DC 20590

C.E. Borland, Acting Chief
Deepwater Ports Standards Division
United States Coast Guard
2100 Second Street, SW
Washington, DC 20593-0001

Re: Liberty Natural Gas, LLC Deepwater Port (USCG-2013-0363)

Dear Mr. Borland and Ms. Ford,

This is in response to your letter dated August 8, 2013, regarding Liberty Natural Gas, LLC's, proposal to own, construct, and operate a deepwater port (Port Ambrose) in the Atlantic Ocean, approximately 17 nautical miles southeast of Jones Beach, New York; approximately 24 nautical miles east of Long Branch, New Jersey; and approximately 27 nautical miles from the entrance to New York Harbor. You have requested information on the presence of species listed by NOAA's National Marine Fisheries Service (NMFS) in the project area.

The following Endangered Species Act (ESA) listed species under NOAA's NMFS are likely to occur in the proposed project area:

<u>Species</u>	<u>Status</u>
Gulf of Maine Distinct Population Segment (DPS) of Atlantic Sturgeon (<i>Acipenser oxyrinchus oxyrinchus</i>)	Threatened
New York Bight DPS of Atlantic sturgeon	Endangered
Chesapeake Bay DPS of Atlantic sturgeon	Endangered
Carolina DPS of Atlantic sturgeon	Endangered
South Atlantic DPS of Atlantic sturgeon	Endangered
Northwest Atlantic Ocean DPS of loggerhead sea turtle (<i>Caretta caretta</i>)	Threatened
Kemp's ridley sea turtle (<i>Lepidochelys kempi</i>)	Endangered
Green sea turtle (<i>Chelonia mydas</i>)	Endangered



Leatherback sea turtle (<i>Dermochelys coriacea</i>)	Endangered
North Atlantic Right Whales (<i>Eubalaena glacialis</i>)	Endangered
Humpback whale (<i>Megaptera novaeangliae</i>)	Endangered
Fin whale (<i>Balaenoptera physalus</i>)	Endangered

Listed species of Atlantic sturgeon may be present in the project area year round, while listed species of sea turtles are known to be present in the waters of New York and New Jersey from May through November, with the highest concentration of sea turtles present from June to October. The federally endangered North Atlantic right, humpback, and fin whales, are seasonally present in the waters off New York and New Jersey. These species of whales use the nearshore, coastal waters of the Atlantic Ocean as a migration route to and from calving and foraging grounds. Humpback and fin whales primarily occur in the waters of New York and New Jersey during the spring, summer and fall months, while the North Atlantic right whale primarily occur in these waters from November 1 through April 30, although transient right whales can be present outside of this time frame. Additionally, during the November 1 through April 30 timeframe, a seasonal management area (SMA) has been designated for North Atlantic right whales within a 20-nautical mile radius (as measured seaward from the COLREGS lines) of the entrance to the Ports of New York and New Jersey (located at 40°29'42.2"N and 073°55'57.6"W). Vessels 65 feet or greater in overall length transiting through the SMA at this time are restricted to 10 knots or less to protect right whales in their migratory routes.¹ As the proposed project will cross waters of the SMA, please be aware of these regulations should your proposed project occur during the months of November 1 through April 30.

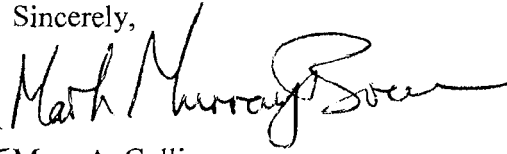
Conclusion

As listed species are likely to be present in the action area of this project, a consultation, pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, may be necessary. As you may know, any discretionary federal action, such as the approval or funding of a project by a Federal agency, that may affect a listed species must undergo consultation pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended. If the proposed project has the potential to affect listed species and it is being approved, permitted or funded by a Federal agency, the lead Federal agency, or their designated non-Federal representative, is responsible for determining whether the proposed action is likely to affect this species. The Federal agency would submit their determination along with justification for their determination and a request for concurrence, to the attention of the Endangered Species Coordinator, NMFS Northeast Regional Office, Protected Resources Division, 55 Great Republic Drive, Gloucester, MA 01930. After reviewing this information, NMFS would then be able to conduct a consultation under Section 7 of the

¹ For more information on this SMA, see http://www.nmfs.noaa.gov/pr/pdfs/shipstrike/compliance_guide.pdf.

ESA. Should you have any questions about these comments or about the Section 7 consultation process in general, please contact Danielle Palmer (978-282-8468; Danielle.Palmer@noaa.gov).

Sincerely,


for Mary A. Colligan
Assistant Regional Administrator
for Protected Resources

EC: Palmer, NMFS/PRD
Rusanowsky, Boelke NMFS/HCD

File Code: Sec 7 technical assistance 2013— Port Ambrose LNG



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
PROGRAM PLANNING AND INTEGRATION
Silver Spring, Maryland 20910

OCT 17 2012

Commander Mark Prescott
Chief, Deepwater Ports Standards Division
Department of Homeland Security
Coast Guard 2100 Second Street, SW
Stop 7126
Washington, DC 20592-7126

ATTN: Roddy C. Bachman

Dear Commander Prescott:

Thank you for providing the National Oceanic and Atmospheric Administration (NOAA) with the Port Ambrose (applicant or Port Ambrose) Deepwater Port Act license application for a liquefied natural gas (LNG) terminal. The project is located approximately 18.5-19 miles offshore of Jones Beach, New York, and 31 miles offshore of the entrance to New York Harbor. The project entails the proposed construction and operation of two subsea Submerged Turret Loading buoy (STL buoy) systems which would receive and transfer natural gas from purpose-built liquefied natural gas regasification vessels (LNGRV). The STL buoys and their associated lateral pipelines would be connected to a 19.3 mile long subsea pipeline from the Deepwater Port (DWP) site to an interconnection with the existing Transco pipeline in New York State waters. Pursuant to the interagency Memorandum of Understanding Related to the Licensing of Deepwater Ports (DWP MOU), signed by the Department of Commerce on February 3, 2004, this letter provides the United States Coast Guard and the Maritime Administration (MARAD) with NOAA's "completeness" finding and recommendations.

The DWP MOU allows NOAA's National Ocean Service (NOS) and National Marine Fisheries Service (NMFS) at least five working days from receipt of an application to provide the Coast Guard/MARAD with (1) findings to assist the Coast Guard/MARAD in their "completeness" determination process, and (2) "recommendations as to the need for any additional information necessary for the agency [NOAA] to evaluate the application's impacts upon the agency's programs and areas of responsibility." The deadline for providing comments to the Coast Guard/MARAD is October 17, 2012.

NOAA provides the attached NMFS recommendations to assist in your completeness determination, and to advise you of the need to collect additional data and conduct further analyses that will be necessary for NOAA and the Coast Guard/MARAD to evaluate the Port Ambrose Deepwater Port effects on NOAA's trust resources, particularly in the context of essential fish habitat, marine fishery resources, listed species, and marine mammals. Consistent with the DWP MOU's intent of facilitating the timely processing of deepwater port applications, please note that the level of detail in the NOAA comments is intended to identify issues early so that they may be resolved in an efficient manner.

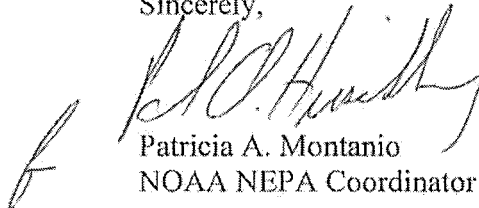


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If you have any questions regarding NMFS habitat area of responsibility, please contact Diane Rusanowsky at NOAA/NMFS (203-882-6568). For NMFS protected species, please call Danielle Palmer at 978-281-9468.

Sincerely,

A handwritten signature in black ink, appearing to read "P. A. Montanio", is written over the typed name. To the left of the signature is a small, stylized handwritten mark that looks like a lowercase "f" or a checkmark.

Patricia A. Montanio
NOAA NEPA Coordinator

Enclosure

cc: Yvette Fields
Maritime Administration/Department of Transportation
400 7th Street, SW, Washington, DC 20590

**ENCLOSURE – NOAA COMPLETENESS REVIEW RECOMMENDATIONS
FOR THE PORT AMBROSE
DEEPWATER PORT LICENSE APPLICATION**

The National Oceanic and Atmospheric Administration (NOAA) has prepared completeness recommendations regarding the Port Ambrose (applicant or Port Ambrose) Deepwater Port Act license application for a liquefied natural gas (LNG) terminal. As indicated in the attached cover letter, NOAA provides these recommendations to assist in your completeness determination, and to advise you of the need to collect additional data and conduct further analyses that will be necessary for NOAA, the Coast Guard and the Maritime Administration (Coast Guard/MARAD) to evaluate the Port Ambrose Deepwater Port's effects on NOAA's trust resources, particularly in the context of essential fish habitat, marine fishery resources, listed species, and marine mammals. The project is located approximately 18.5-19 miles offshore of Jones Beach, New York, and 31 miles offshore of the entrance to New York Harbor. The project entails the proposed construction and operation of two subsea Submerged Turret Loading buoy (STL buoy) systems which would receive and transfer natural gas from purpose-built liquefied natural gas regasification vessels (LNGRV). The STL buoys and their associated lateral pipelines would be connected to a 19.3 mile long subsea pipeline from the Deepwater Port (DWP) site to an interconnection with the existing Transco pipeline in New York State waters.

These recommendations are provided to the Coast Guard/MARAD pursuant to the interagency Memorandum of Understanding Related to the Licensing of Deepwater Ports. Our recommendations regard the Magnuson-Stevens Fishery Conservation and Management Act (MSA), Fish and Wildlife Coordination Act (FWCA), Endangered Species Act (ESA), and the Marine Mammal Protection Act (MMPA). For each of the completeness comments and recommendations below, we are available to assist the Coast Guard/MARAD or the project applicant in identifying relevant studies that may assist in the development of analyses to ascertain the degrees and scale of the effects on marine resources.

Completeness Comments – Magnuson-Stevens Fishery Conservation and Management Act and Fish and Wildlife Coordination Act

Background

The MSA requires federal agencies to consult with the Secretary of Commerce, through NOAA's National Marine Fisheries Service, with respect to "any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat (EFH) identified under this Act." 16 U.S.C. § 1855(b)(2). Pursuant to the MSA, each fishery management plan must identify and describe EFH for the managed fishery. The statute defines EFH as "those waters and substrates necessary to fish for spawning, breeding, feeding or growth to maturity." 16 U.S.C. §1853(a) (7) and §1802(10). Our regulations further define EFH adding, among other things, that "'necessary' means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem." 50 C.F.R. §600.10.

The Port Ambrose DWP application indicates that this facility would be constructed and operated in an area described and identified as EFH for fish managed under the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fisheries Management Council, and NOAA. This EFH information is contained in Fishery Management Plans for Northeast Multispecies, Atlantic Salmon, Monkfish, Atlantic Herring, Dogfish, Small Mesh Multispecies, Northeast Skate Complex, Bluefish, Atlantic Mackerel/Squid/Butterfish, Atlantic Surf clam Ocean Quahog, Summer Flounder/Scup/Black Sea Bass, Coastal Migratory Pelagic, and Atlantic Highly Migratory Species.

The Coast Guard/MARAD must consult with us pursuant to section 305(b)(2) of the MSA on “all actions or proposed actions authorized, funded or undertaken” that may adversely affect EFH. Adverse effects to EFH are defined in our regulations as “any impact that reduces the quality and/or quantity of EFH.” The regulations state:

An adverse effect may include direct or indirect physical, chemical or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat and other ecosystems components, if such modifications reduce the quality and/or quantity of EFH. Adverse effects to EFH may result from action occurring within EFH or outside EFH and may include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions. 50 C.F.R. 600.810(a).

The regulations at 50 C.F.R. 600.920 set forth the consultation process that will allow us to make a determination of this project’s effects on EFH and provide conservation recommendations to the USCG/MARAD on actions that would adversely affect such habitat pursuant to section 305(b)(4)(A) of the MSA. To initiate an EFH consultation, you must submit an EFH assessment to us. Required components of an EFH assessment include “a description of the action; an analysis of the potential adverse effects of the action on EFH and the managed species; the federal agency’s conclusions regarding the effects of the action on EFH; and proposed mitigation, if applicable.” See 50 C.F.R. §600.920(e)(3). Should the project result in substantial adverse impacts to EFH, an expanded EFH consultation may be necessary. See §600.920(i). In the event of an expanded EFH consultation, we may encourage the USCG to include additional information in the EFH assessment such as results of on-site inspections, views of recognized experts, a review of pertinent literature, an analysis of alternatives and any other relevant information. See 50 C.F.R. §600.920(e)(4). Finally, depending on the degree and type of habitat impact, compensatory mitigation may be necessary to offset permanent and temporary effects of the project.

The FWCA provides authority for our involvement in evaluating impacts to fish and wildlife from proposed water resource development projects. We coordinate and consult with Federal action agencies on these matters prior to the consulting agency making a regulatory or funding decision or otherwise taking non-emergency action on a project or proposal. The FWCA specifically requires that wildlife conservation be given equal consideration to other features of water-resource development programs through planning, development, maintenance and coordination of wildlife conservation and rehabilitation. Wildlife and wildlife resources are defined by the Act to include: birds, fish, mammals and all other classes of wild animals and all

types of aquatic and land vegetation upon which such wildlife is dependent. These consultation and coordination activities are intended to prevent loss or damage to fish and wildlife resources and to provide appropriate measures to mitigate adverse impacts associated with proposed human activities.

We identify below our preliminary environmental concerns in the context of EFH fish species, and fisheries. We also provide you with our preliminary recommendations as to the need for additional information necessary to evaluate the proposal's impacts. These recommendations regarding information needs are not exhaustive and may be supplemented as a formal EFH consultation is initiated or when the National Environmental Policy Act (NEPA) scoping process is initiated and a subsequent NEPA document is prepared for the Port Ambrose LNG project.

Project Alternatives and Impact Minimization

We recommend that the applicant provide additional information on alternatives. Although Port Ambrose LNG proposes to construct and to operate a LNG deepwater port facility to serve as a delivery point for the importation of natural gas supplies to New York, the application does not fully discuss alternative methods of natural gas importation or the expansion of existing natural gas facilities or pipelines in the region. Additionally, a robust discussion of alternate locations for the proposed project and alternative alignments for the subsea pipeline is lacking. Some of these discussions are in the information provided for our preliminary review; however, there are numerous sections which do not adequately justify stated claims or otherwise fail to present a robust analysis. An evaluation of reasonable alternatives is required for the NEPA analysis. See 40 C.F.R. §§ 1502.14. We specifically note that the alternatives analysis should include a discussion of practicable alternatives that are less damaging to the environment. We also recommend that sequencing of avoidance, minimization, and mitigation of impacts be incorporated into the proposed project timeline and rollout plan and included in the alternatives analysis. These steps are essential to ensuring that impacts on the aquatic environment have been avoided and minimized to the extent practicable. Because the application does not contain sufficient information on these issues, we recommend that a full and complete analysis of alternatives be included in the NEPA document for this project. We suggest that these issues be coordinated jointly with the involved Federal and State regulatory agencies to ensure that any refinements to this application and its accompanying documents will suffice for all project evaluation needs.

DWP site and Pipeline Route Selection

We recommend that the applicant provide additional information on commercial and recreational fishing at the proposed site and pipeline locations. The proposed DWP is located approximately 18.5-19 miles offshore of Jones Beach, New York, and 31 miles offshore of the entrance to New York Harbor. Under the current preferred alternative, an appurtenant 19.3 mile long pipeline would extend from the new DWP facilities and interconnect into the existing Transco pipeline in New York State waters. Topic Report Two –Alternatives Analysis does not clearly identify and discuss the criteria used to select the DWP location or pipeline routes or why other locations within the New York Bight were unsuitable. In addition, the application appears to use siting criteria for the DWP and pipeline that does not fully account for our trust resources. While the application discusses criteria addressing some potential effects to resources of concern to us, including proximity to designated fishing grounds, spawning areas, and critical habitats for

protected resources or EFH, additional information regarding commercial and recreational fishing should be utilized in the site selection analysis. Further, we specifically caution that the selection of this site prior to identifying ichthyoplankton and other life stages of aquatic resources present within the project area may result in incomplete analyses and incorrect conclusions in the eventual EFH assessment and other natural resource documentation.

Benthic sampling

We recommend that the applicant provide additional site specific information regarding the benthic resources in the proposed project area. Site-specific benthic sampling data are necessary to reach conclusions regarding the impacts of the project on the benthic communities and the fish species for which the benthos is a primary food source. We recommend that the applicant develop and implement a comprehensive benthic sampling program for both the deepwater port site and the entire pipeline alignment. We specifically recommend that all benthic profiling be prepared and transmitted in color-enhanced format and that all methods and results of studies are presented clearly. It is advisable that any references used also are provided in their entirety in an appendix so that they may be consulted in subsequent stages of project review. This will improve your ability to analyze fully the proposed project's impacts on benthic resources and the forage base for federal and non-federal fishery resources.

Ichthyoplankton sampling

We recommend that the applicant provide site-specific data regarding ichthyoplankton. Past phytoplankton surveys of the New York Bight show that ichthyoplankton distributions are not uniform, suggesting the likelihood that some areas of the Bight are more important than others or at the very least that occurrence is spatially and/or temporally patchy. Further, the "Ichthyoplankton Entrainment Assessment" included as Appendix D of Topic Report Four – Biological Resources cannot be considered a valid assessment of the potential entrainment effects of the proposed project due to the data used in the assessment. According to the document, the larval density data were obtained from studies within Great South Bay, New York. The STL Buoys proposed by the applicant will be approximately 18 miles offshore in water depths of approximately of 100 to 120 feet. The estuarine data are taken from an environment that is not representative of the conditions, habitat, and larval densities that may be found at the DWP site or along the pipeline alignment. Project-specific fishery resources data are necessary in order to allow for a full analysis of impacts that the project may have on federal and non-federal fishery resources. Further, any ichthyoplankton entrainment assessment done for this project should be comprehensive enough to evaluate the effects on various guilds of species that may be represented at the project site including pelagic, demersal, and forage species.

Analysis of Impacts Resulting from Seawater Intakes

We recommend that the applicant include data that are more representative of the project site. Although the application includes an ichthyoplankton entrainment assessment, the data used to develop this model were not representative of the conditions of the project site. As discussed above, the habitat conditions at the nearshore ichthyoplankton sampling locations do not correlate to the conditions found at the proposed DWP site, and, therefore, cannot be used to evaluate the potential impacts of the proposed project as a result of operation of the DWP. We

recommend the applicant include an analysis of site-specific impacts on ichthyoplankton resulting from the operation of the deepwater port.

A clear and detailed discussion of the project components is necessary to better assess project impacts. Here, the application lacks a clear description of the water intakes and discharges that will be required for the construction and operation of the DWP. Several sections of the document appear to contain pieces of the information needed to assess the water withdrawal and discharge needs of the LNGRVs, but the information is scattered in various locations in the document. We recommend that all of the project's water intake and discharge needs be clearly identified and discussed in one section of the document. This section should also provide a more detailed discussion of the operation of the buoy system and the LNGRVs.

From the information found in the application, it appears that the Port Ambrose LNG project proposes to use up to 1.93 million gallons of seawater per day, per LNGRV for ballast water as the natural gas is off-loaded from the vessel into the pipeline. The intake of seawater has the potential to entrain and impinge fishery resources during operation of the deepwater port. In addition, approximately 3.5 million gallons of seawater will be needed to flood and test the trunk line and offshore lateral transmission line and approximately 8.2 million gallons of water will be utilized for DWP commissioning. We recommend the applicant use site-specific ichthyoplankton data in order to evaluate impacts resulting from these aspects of the proposed project.

Discharge into Federal Waters

We recommend that the applicant include a discussion of the construction and operational discharges into federal waters. Based on experiences with other LNG projects in the Northeast, the discharge water may be as high as 10 degrees Celsius above ambient. It is unclear from the document what other discharges may occur from this project. We recommend that a clear discussion of all of the discharges associated with the operation of the proposed DWP be provided. Further, an analysis of impacts on fishery resources and habitats should be included within the environmental evaluation.

Fisheries Information

We recommend that the applicant provide additional fisheries information, including information on the economic impacts of a potential fisheries exclusion zone, as the applicant seeks authorization for an exclusion zone of 500 meters around each buoy, as well as a 1000 meter no anchor zone. It is important to use current and accurate data and information in determining the potential impacts on historical, current and future fishing activities. The proposed DWP site is in area known as Cholera Bank. This area and the adjacent Middle Ground, Angler Bank, East of Cholera and Mussel grounds are all important recreational and commercial fishing grounds. The applicant should discuss the economic impacts caused by the creation of an exclusion zone that would preclude commercial and recreational fishing activity in the area. We recommend that a discussion of ecological effects to fishery resources as a result of the exclusion of commercial fishing operations be included. For example, issues such as displacement of existing commercial fisheries into other areas resulting in increased fishing pressure to other locations need to be addressed.

We also recommend that you include in the NEPA document a comprehensive discussion of the socio-economic impacts resulting from the potential exclusion of commercial and recreational fishing operations within the vicinity of the DWP area. The NEPA document should also evaluate the regional impacts on fishing ports resulting from the potential closure of these fishing grounds due to LNG operations.

Onshore Facility Impacts

We recommend that the applicant provide additional information on the project's landside impacts so that the appropriate analysis of impacts can be completed. The applicant has stated that no onshore facilities will be constructed for this project; however, the application notes that upland areas will be necessary for fabrication, laydown and staging of construction materials for the proposed pipeline assembly. In order to evaluate the direct, indirect, individual, and cumulative effects of the proposed DWP, we recommend that a full and complete discussion of the landside impacts be included in the deepwater port application.

Monitoring of Fishery Impacts

We recommend that the applicant provide more information on a potential fisheries monitoring plan. The need for a monitoring plan will likely be dependent on the degree of impact on ichthyoplankton and other marine resources, which (as stated in the above comments) would be aided by a more complete presentation of such data in the project application. Here, we may recommend that a monitoring plan be developed to ascertain the effect of seawater intake and LNG operations on marine fishery resources. Such a biological monitoring plan would be designed to determine the distribution and abundance of marine fishery resources at the project site (by species and life stage and including early life stages) and quantify the impacts on those species and the fishery from impingement, entrainment, and properties (e.g., temperature, salinity, and biocide concentration) of the discharge plume. The monitoring plan would also be linked to a plan for adaptive management of the LNG facility to allow operational or mechanical modifications to prevent or minimize adverse impact to the marine environment. We also are concerned with the potential for persistent or chronic benthic disturbances in the proposed pipeline alignment as well as with the various mooring gear and interconnections. The monitoring plan should also include pre and post construction monitoring of the pipeline alignment to ensure proper burial of the pipeline and benthic community recovery. We strongly encourage color-enhanced profile charts for this purpose. We look forward to coordinating with you and the applicant on the development of such a monitoring plan.

Compensatory Mitigation

We recommend the applicant include a discussion of compensatory mitigation for impacts resulting from the construction and operation of the pipeline and the deepwater port. While we note that the applicant must prevent or minimize adverse effects to the marine environment, compensatory mitigation may be required to offset permanent and temporary impacts on fish habitats. Construction of the pipeline will result in impacts on the benthic community along the pipeline alignment that may result in permanent or temporary changes in the community structure. Temporary loss of functions and values – from the time of initial impact to the time of full recovery – are typically mitigated. We recommend that the applicant analyze the anticipated effects and anticipated recovery times for marine fishery habitats within the environmental

evaluation. For impacts that cannot be avoided, compensatory mitigation for impacts should be proposed within the application.

Complete Project

We recommend that the USCG's environmental analysis include all direct, indirect, and cumulative impacts associated with the proposed project, including all of the DWP up to the interconnecting facility tie-in with the existing Transco pipeline. This analysis should include impacts resulting from construction, operation, repair and maintenance, as well as decommissioning. Doing so will allow all of us to better understand the scope of the analysis.

Cumulative Effects

We recommend that the applicant more clearly describe the relationship between the project and other projects in the area. The applicant notes the lease application by the New York Power Authority to develop an offshore wind facility in close proximity to the proposed DWP location. While the applicant suggests the potential for compatible uses between the two facilities, the Port Ambrose project applicant should consider cumulative effects of the two projects on fish habitat, fishery resources and commercial and recreational fishing activities.

Completeness Comments - Endangered Species Act and Marine Mammal Protection Act

Background

Endangered and threatened species of sea turtles, Atlantic sturgeon, and marine mammals are known to occur in and around the proposed site for the Port Ambrose deepwater port and pipeline. ESA listed species of whales that are likely to occur seasonally within the project area are the federally endangered North Atlantic right whale (*Eubalaena glacialis*), humpback whale (*Megaptera novaeangliae*), fin whale (*Balaenoptera physalus*), and sperm whale (*Physeter macrocephalus*). ESA listed species of sea turtles that are likely to occur seasonally within the project area are federally threatened Northwest Atlantic Ocean Distinct Population Segment (DPS) of loggerhead (*Caretta caretta*) and the federally endangered Kemp's ridley (*Lepidochelys kempi*), green (*Chelonia mydas*) and leatherback sea turtles (*Dermochelys coriacea*). Atlantic sturgeon (*Acipenser oxyrinchus*) are likely to occur within the project area. These may include animals from the federally endangered New York Bight, Carolina, South Atlantic, and Chesapeake Bay DPSs of Atlantic sturgeon and the federally threatened Gulf of Maine DPS of Atlantic sturgeon.

ESA Background

Section 7 of the Endangered Species Act (16 U.S.C. § 1536(a)(2)) requires Federal agencies to consult with the Secretary of Commerce, through NOAA, to insure that "any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or adversely modify or destroy [designated] critical habitat" See also 50 C.F.R. part 402. Our review of the application leads us to conclude that the action may affect a listed species or designated critical habitat, thereby triggering the requirement to consult under the ESA. See 50 C.F.R. § 402.14.

MMPA Background

Under the MMPA, it is generally illegal to “take” a marine mammal without prior authorization from us. “Take” is defined as harassing, hunting, capturing, or killing, or attempting to harass, hunt, capture, or kill any marine mammal. Except with respect to certain categories of activities not pertinent here, “harassment” is defined as any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal in the wild or has the potential to disturb a marine mammal in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Under the MMPA, the Secretary of Commerce, through NOAA, may authorize the take of small numbers of marine mammals incidental to otherwise lawful activities provided that the takings would have no more than a negligible impact on those marine mammal species and would not have an unmitigatable adverse impact on the availability of those species for subsistence uses. An activity has a “negligible impact” on a species or stock when it is determined that total taking by the activity is not reasonably likely to reduce annual rates of survival or annual recruitment (i.e., offspring survival, birth rates). Most incidental take authorizations to date have involved the incidental harassment of marine mammals by sound. In the event that any aspect of the project will result in a marine mammal “take,” the Coast Guard/MARAD or the project applicant would be responsible for obtaining an incidental take authorization in advance from us. See 16 U.S.C. §§ 1371(a)(5)(A) and (a)(5)(D).

Potential Impacts on Endangered and Threatened Species and Marine Mammals

Although listed species of whales, Atlantic sturgeon, and sea turtles were identified and briefly described in the document, potential effects to these species from the proposed construction, operation, including maintenance and repair, and decommissioning of the LNG terminal were not fully identified or assessed. We recommend a detailed and complete analysis of potential impacts on each of the endangered and threatened species and marine mammals including, but not limited to, the following:

Large Whale Ship Strike/Vessel Collision

Construction, support, and carrier vessels associated with the construction and operation of the LNG port have the potential to affect marine mammal species due to an increase in the frequency of vessel transits, movement along vessel traffic patterns, and the speed of vessel traffic. The applicant has indicated that, overall, the event of a vessel collision with marine mammal species throughout this project is unlikely.

Vessel collisions are one of the primary sources of human-caused mortality to the North Atlantic right whale (*Eubalaena glacialis*), with many vessel strike events not being recognized or reported. Based on the status of this population, we have implemented ship speed reduction and reporting requirements along the U.S. East Coast to reduce vessel collisions with right whales in critical feeding, calving, and migratory areas (50 CFR 224.105). The applicant has predicted that the construction, operation, including maintenance and repair of the proposed LNG port, and decommissioning of Port Ambrose would contribute a minimal increase in risk for vessel collisions with right and other listed species of whales since the area in which the project is proposed is already subject to high levels of vessel traffic. During the operational phase of the project, LNG carrier vessels are predicted to approach the port using pre-existing shipping lanes at average speeds of 20 knots. Vessel speeds are expected to decrease to about 3 knots within

500 meters of the port. As cited in the proposal, the risk of striking a marine mammal increases greatly as vessel speeds exceed 14 knots. We recommend that the applicant provide a more robust evaluation of potential marine mammal/vessel interactions associated with the proposed project and how suggested vessel strike avoidance measures will mitigate for these potential interactions. An appropriate risk analysis should include a "Before and After Control Impact Analysis." This analysis should take into account the increase in vessel traffic before and after port construction and whether this increase, based on species density in the area, will cause a significant risk of vessel collision.

The applicant has agreed to collaborate with us to implement vessel strike avoidance requirements for each phase of the proposed project if it is determined to be necessary. We have reviewed the "Draft Marine Mammal and Sea Turtle Vessel Strike Avoidance Measures" and would like to further collaborate with Port Ambrose in finalizing these measures so that the applicant can proceed with incorporating these vessel strike avoidance measures into the project proposal.

Interaction with project equipment

Sea turtles, Atlantic sturgeon, and whales can interact with construction (e.g., plows, jetting devices) and operational equipment (e.g., mooring lines, cable sweep). The document does not address such interactions. The types of construction activities and equipment that sea turtles, Atlantic sturgeon, and whales may come into contact with and the potential effect of such an interaction should be fully assessed. The document should contain an analysis of whether such activities have the potential to adversely affect listed species and whether these effects are likely to jeopardize the continued existence of the species or whether the effects of such activities are insignificant or discountable.

Changes to the physical environment (habitat impacts)

The proposed Port Ambrose and pipeline will result in the alteration of the physical environment within the New York Bight. Alteration of the physical marine environment will include not only the destruction and alteration of the benthic community and habitat but will also include noise pollution, release of marine debris, discharges (i.e., heated water), and changes in water quality and/or temperature resulting from fuel spills, turbidity during construction, and wastewater discharges. We believe that additional analyses of the effects of these alterations, both short term (i.e., construction phase) and long term (i.e., operation of the port), are necessary in order to assess potential impacts to listed species. For instance, the potential for the construction and operation of Port Ambrose to destroy benthic habitat/communities as well as produce increased levels of suspended sediment (i.e., turbidity) within the project site must be evaluated further. The report does not sufficiently address the alteration of the benthic community (e.g., amount removed, recovery time) or turbidity plumes produced by each construction activity (e.g., concentration levels, distance the plume extends, and period of time plume remains within the area) and the associated impacts on listed species. Analyses of such impacts are needed as such effects could potentially alter sea turtle, Atlantic sturgeon, and marine mammal foraging success, health, or result in temporary abandonment of the affected area.

Acoustic disturbance and harassment

The report does not sufficiently address the impacts of underwater noise produced during construction and operation of the LNG DWP/pipeline on sea turtles, Atlantic sturgeon, and marine mammals. Throughout construction, operation (including maintenance and repair) and decommissioning of the deepwater port and pipeline, underwater noise will be generated. Pile driving; jetting; and vessel presence (i.e., use of DP thrusters) will also generate elevated noise levels that may adversely affect listed species of whales, Atlantic sturgeon, and sea turtles. More information on and a detailed description of the source levels produced by all construction and operation activities as well as information on the distance at which noise levels will be below injury/disturbance/harassment thresholds established by us for marine mammals, sea turtles, and Atlantic sturgeon for underwater noise, must be provided.¹ If exact underwater noise levels cannot be ascertained, then modeling to estimate the acoustic impact of these construction/operation activities will be necessary in order for us to accurately evaluate and assess the impacts of these underwater noise levels on listed species. In addition, sufficient information on ambient noise levels is not provided. Ambient noise levels within the project area and the contribution of additional noise from DWP/pipeline construction and operations needs to be evaluated further. Any underwater noise levels produced during the construction and operations of the deepwater port that is above ambient for any period of time has the potential to cause behavioral and/or physiological changes in listed species and, thus, needs to be considered. Based on this evaluation, direct and indirect effects to listed species of whales, Atlantic sturgeon, and sea turtles will need to be fully addressed.

Sea water intake

The report does not sufficiently address the uptake of sea water throughout construction (i.e., hydrostatic testing of pipelines, commissioning of LNG vessel, support vessels) and operation (e.g., ballast water during safety and security checks and regasification) of the LNG terminal and its impacts on listed species of whales (i.e., the removal of phytoplankton, zooplankton, and ichthyoplankton, the primary food source of listed whale species). A more detailed analysis on the amount of sea water that will be taken up throughout each phase of construction, followed by a full evaluation of the effects of this water removal on the phytoplankton, zooplankton, and ichthyoplankton community (e.g., how much (biomass) is removed) within the project area and the effects this removal will have on listed species of whales (i.e., what percentage of plankton species will be removed from the whales diet) needs to be provided. Additionally, we will need a similar analysis to be conducted for the long term operation of the DWP and its impacts on the plankton community and the resultant effects on listed species of whales. We need both analyses in order to evaluate the short term and long term effects of the proposed action on listed species of whales.

Decommissioning and Maintenance and Repair

¹ Atlantic sturgeon: Injury: 206 dB re 1 $\mu\text{Pa}_{\text{Peak}}$ and 187 dB accumulated sound exposure level (dBcSEL; re: $1\mu\text{Pa}^2\cdot\text{sec}$) (183 dB accumulated SEL for fish less than 2 grams); Behavior harassment: 150 dB re 1 $\mu\text{Pa}_{\text{RMS}}$.

Listed species of Whales: Mortality: 180 dB re 1 $\mu\text{Pa}_{\text{RMS}}$; Behavioral Disturbance/Harassment (non-continuous noise): 160 dB re 1 $\mu\text{Pa}_{\text{RMS}}$; Behavioral Disturbance/Harassment (continuous noise): 120 dB re 1 $\mu\text{Pa}_{\text{RMS}}$.

Listed species of sea turtles: Injury/Behavioral modification: >166 dB re 1 $\mu\text{Pa}_{\text{RMS}}$

The applicant needs to provide a more robust assessment of the direct and indirect effects on listed species of maintenance and repair activities that will occur throughout the life of the LNG terminal. A similar assessment is also needed for decommissioning operations. Stating that the effects to listed species of these phases of port operations will be similar to or no worse than the construction phase of the port is not sufficient, and, thus, we request a full and thorough analysis of effects to whales, sea turtles, and Atlantic sturgeon of maintenance and repair and decommissioning activities.

Because the construction, operation, and decommissioning of Port Ambrose has the potential to affect listed species, a Section 7 consultation under the ESA must be conducted. However, in order to conduct Section 7 consultation, additional information is needed by us before consultation can be initiated as the present document is inadequate to serve as the basis for a biological assessment for the purposes of Section 7 consultation. We believe that this additional information will assist us in evaluating the potential impacts of the proposed DWP on endangered and threatened species.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
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Gloucester, MA 01930-2276

AUG -8 2013

Department of Transportation
Docket Management Facility
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue SE.
Washington, DC 20590-0001

Re: Port Ambrose Deepwater Port Notice of Intent; Docket# USCG-2013-0363

We have reviewed the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the Port Ambrose Deepwater Port. Under the current proposal, Liberty Natural Gas, LLC proposes to construct, own and operate a deepwater port and its attendant liquefied natural gas (LNG) terminal in the New York Bight, approximately 17 nautical miles southeast of Jones Beach, New York and 24 nautical miles east of Long Branch, New Jersey. The proposed facility features two Submerged Turret LoadingTM buoy systems (STL Buoy) which would receive natural gas released from purpose-built LNG regassification vessels (LNGRVs) and subsequently introduce it into the existing Transco Lateral for distribution to customers onshore. The lateral pipeline facilities lie approximately 2.2 nautical miles south of Long Beach, New York and 13 nautical miles east of Sandy Hook, New Jersey. The proposed LNG carriers would deliver, on average, 400 million standard cubic feet of natural gas per day (MMscfd) and would use recirculation ballast water cooling systems, eliminating vessel discharges from vaporization. The Port Ambrose facilities are estimated to be receiving approximately 45 deliveries annually.

Project Setting

The New York Bight, a subset of the larger Mid-Atlantic Bight portion of the Northwest Atlantic Ocean, lies at the interface of an immense and interconnected system of open ocean waters, adjacent coastlands, estuarine embayments, and extensive upland watersheds. The extensive habitat complex of the New York Bight provides critical habitat values and functions (i.e., migratory corridors and breeding/spawning, nursery, overwintering, and foraging grounds) for a wide variety of fish and wildlife resources. While some species occur in the New York Bight as full time residents, many are occasional or seasonal transients or highly migratory species. In recognition of these uses, essential fish habitat has been designated throughout the New York Bight and thus, the Port Ambrose study area for a wide variety of federally managed fishery resources.

The immediate project vicinity is used for a variety of purposes ranging from fishing and marine transportation, to providing utility transmission corridors and recreation opportunities. The New York State Department of Environmental Conservation manages and maintains several successful artificial reef sites nearby, including several within or adjacent to the proposed Port Ambrose site. These reefs are visited actively by birders, recreational fishers and commercial harvesters who obtain access via private vessel, party boat charters or other watercraft hailing from docks and ports in the New York/New Jersey area. Given the important ecological values and functions that the local habitats provide for fish and wildlife, as well as the important socio-economic and



recreational services that the area provides to the human community, it will be vital for the EIS to evaluate fully any reasonably foreseeable direct, indirect, or cumulative effects associated with construction and use of the Deepwater Port facilities. We are concerned that the preliminary information is too reliant on data of opportunity or generic regional characterizations of historic species assemblages to be useful for supporting the necessary evaluations for site selection and preferred alternative identification.

Pertinent Regulatory Authorities

The statutes which set forth our mutual responsibilities under the Magnuson Stevens Fishery Conservation and Management Act (MSFCMA), the Fish and Wildlife Coordination Act (FWCA), the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA) have already been presented in our completeness review comments dated October 17, 2012. These statutes collectively provide the framework and authority for our involvement in evaluating potential impacts to fish, wildlife, and their habitats which arise from a wide range of water resource development projects and other human activities.

General Comments

As stated in our October 17, 2012 comments, the EIS should provide sufficient data, studies, analyses, and preliminary determinations in order for us to complete the necessary coordination and meet our mutual regulatory obligations in a timely manner. We note that the baseline for some of these determinations and evaluations has changed since Liberty's 2010 application and the process established for that review must be updated accordingly to suffice for the Port Ambrose application. For instance, certain project details have been revised: five distinct population segments (DPSs) of Atlantic sturgeon (*Acipenser oxyrinchus*) have been listed under the ESA (New York Bight, Chesapeake Bay, South Atlantic and Carolina DPSs are listed as endangered, while the Gulf of Maine DPS is listed as threatened (77 FR 5880; 77 FR 5914; February 6, 2012). In addition, living aquatic resource populations inhabiting or visiting the area have not remained static. Accordingly, the current effort must be tailored to reflect the current proposal and local habitat or natural resource population conditions. We strongly suggest that all data gaps and issues of concern that were raised in our completeness review comments, including the need to collect more appropriate or representative ichthyoplankton and benthic samples, should be completed and the results incorporated in the draft EIS prior to its being made available for public review and comment. These more comprehensive findings also should be used explicitly to support the rationale used to select or reject particular system or design alternatives; to explain how impacts would be avoided and minimized to the extent practicable; and also to substantiate why the project proponents consider their proposed mitigation strategies reasonable compensation for losses or harm that accrues during construction and over the life of the project.

In addition to the themes that we raised previously, it is important to acknowledge that climate change has risen to heightened importance in the wake of significant storms in the New York/New Jersey region. Most recently, Hurricane Irene, Tropical Storm Lee, and Super Storm Sandy created significant local damage and spawned major natural disasters in nearby coastal areas. The EIS should consider how changes in sea level, habitat use and local species assemblages are likely to unfold during the life of the project and what their consequences might be.

Magnuson-Stevens Fishery Conservation and Management Act

As described in our October 17, 2012, letter, we are concerned with the potential effects to these species and habitats from the proposed construction, operation, maintenance, repair, and eventual decommissioning of the Port Ambrose LNG terminal. These concerns include, but are not limited to: benthic habitat disturbances; loss of fishery resources and prey through entrainment or as a consequence of thermal impacts; and a variety of other direct, indirect and cumulative impacts that would accompany project development and operations. As you are aware, the MSFCMA requires federal agencies to consult with the Secretary of Commerce, through NOAA's National Marine Fisheries Service, with respect to "any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat (EFH) identified under this Act." 16 U.S.C. § 1855(b)(2). The statute defines EFH as "those waters and substrates necessary to fish spawning, breeding, feeding or growth to maturity." 16 U.S.C. § 1853(a)(7) and § 1802(10). Our regulations further define EFH adding, among other things, that "'necessary' means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem." 50 C.F.R. §600.10.

The USCG/MARAD must consult with us pursuant to section 305(b)(2) of the MSFCMA on "all actions or proposed actions authorized, funded or undertaken" that may adversely affect EFH. Adverse effects to EFH are defined in our regulations as "any impact that reduces the quality or quantity of EFH." The regulations state:

- An adverse effect may include direct or indirect physical, chemical or biological alterations of the water or substrate and any loss of, or injury to, benthic organisms, prey species and their habitat and other ecosystems components, if such modifications reduce the quality and/or quantity of EFH. Adverse effects to EFH may result from action occurring within EFH or outside EFH and may include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions. 50 C.F.R. 600.810(a).

The regulations at 50 C.F.R. 600.920 set forth the consultation process that will allow us to make a determination of this project's effects on EFH and provide conservation recommendations to the USCG/MARAD on actions that would adversely affect such habitat pursuant to section 305(b)(4)(A) of the MSFCMA. To initiate an EFH consultation, you must submit an EFH assessment to us. Required components of an EFH assessment include "a description of the action; and analysis of the potential adverse effects of the action on EFH and the managed species; the federal agency's conclusions regarding the effects of the action on EFH; and the proposed mitigation, if applicable." See 50 C.F.R. §600.920(e)(3). Should the project result in substantial adverse impacts to EFH, and expanded EFH consultation may be necessary. See §600.920(i). In the event of an expanded EFH consultation, we may encourage the USCG/MARAD to include additional information in the EFH assessment such as results on on-site inspections, views of recognized experts, a review of pertinent literature, an analysis of alternatives and any other relevant information. See 50 C.F.R. §600.920(e)(4). Finally depending on the degree and type of habitat impact, compensatory mitigation may be necessary to offset permanent and temporary effects of the project.

Documentation made available for consideration refers to the proposed project area as being contained within multiple "10-minute by 10-minute EFH blocks." We presume that such reference stems from some of the material that appears in the NMFS Northeast Region's webpage in the section entitled *Guide to Essential Fish Habitat Designations in the Northeastern United States*. To clarify, the guide is intended only as a quick reference to determine the species and life stages for which EFH is most likely to be designated in a particular area. In order to determine local EFH designations, it is necessary to consult the actual EFH descriptions, habitat preferences and life history parameters provided in the *Guide to EFH Descriptions* for each species. In some cases, it also may be necessary to refer to the more extensive information provided in the actual designation documents and current Fishery Management Plans. After you have made any necessary corrections to the EFH list for this project, and before you proceed with preparing an EFH assessment, we suggest that you first coordinate with us to ensure that the list of designations is complete and that we mutually agree that the nature and scope of issues that you plan to include in the EFH assessment will adequately present and analyze the direct, indirect, and cumulative effects of the project both during its construction and in the interim until it is decommissioned.

Fish and Wildlife Coordination Act

The FWCA provides authority for our involvement in evaluating impacts to fish and wildlife from proposed water resource development projects and other human activities that may affect waters of the United States. The FWCA specifically requires that wildlife conservation be given equal consideration to other features of water resource development programs through planning, development, maintenance and coordination of wildlife conservation and rehabilitation. Wildlife and wildlife resources are defined by the Act to include: birds, fish, mammals and all other classes of wild animals and all types of aquatic and land vegetation upon which such wildlife dependent. These consultation and coordination activities are intended to prevent loss or damage to fish and wildlife resources and to provide appropriate measures to mitigate adverse impacts associated with proposed human activities.

While many of the impacts that would accrue to federally managed fishery resources under the MSFCMA also would accrue to FWCA species, it is important to note that the interests of some species would not be represented adequately by relying on the EFH assessment alone. For instance, lobsters and crabs do not have an appropriate surrogate among the federally managed fishery resources that have EFH designated in the project vicinity and their needs and those of other non-represented species should be discussed at length in this section. Similarly, the behaviors and habitat needs of diadromous and estuary-dependent fishes may not be represented by a discussion surrounding marine fishes. The discussion for FWCA species should be designed around an ecological guild model that uses locally important species to evaluate the project impacts to organisms or populations associated with the various trophic levels and life history strategies exhibited by FWCA species known to occupy the project site as residents or transients. Focus should be on issues surrounding particular species, life history stages, or habitat components that would be most susceptible to the various potential impacts.

Endangered Species Act

The following ESA listed species under our jurisdiction are likely to be found in the New York Bight, and thus, the Port Ambrose project area:

- North Atlantic right whale (*Eubalaena glacialis*),
- Humpback whale (*Megaptera novaeangliae*),
- Fin whale (*Balaenoptera physalus*),
- Northwest Atlantic Ocean Distinct Population Segment (DPS) of loggerhead sea turtle (*Caretta caretta*),
- Kemp's ridley sea turtle (*Lepidochelys kempi*),
- Green sea turtle (*Chelonia mydas*),
- Leatherback sea turtle (*Dermochelys coriacea*), and
- Atlantic sturgeon (*Acipenser oxyrinchus*), including all 5 DPSs (New York Bight, Carolina, South Atlantic, Chesapeake Bay, and Gulf of Maine).

As provided in our October 17, 2012, letter, we are concerned with the potential effects to these species from the proposed construction, operation (including maintenance and repair), and decommissioning of the Port Ambrose LNG terminal. These concerns include, but are not limited to, large whale ship strike/vessel collision; listed species interactions with project equipment; alteration of the physical environment and essential habitat; phytoplankton/zooplankton entrainment via seawater withdrawal; and acoustic disturbance that could result in injury or harassment to our listed species (see October 17, 2012, letter for further details). The EIS needs to consider and provide a thorough analysis of these issues and their direct, indirect, and cumulative effects to our listed species and their habitat.

Additionally, as you know, section 7 of the Endangered Species Act (16 U.S.C. § 1536(a)(2)) requires Federal agencies to consult with the Secretary of Commerce, through NOAA, to insure that "any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or adversely modify or destroy [designated] critical habitat . . ." See also 50 C.F.R. part 402. As ESA listed species under our jurisdiction will occur in the project area, and effects to these species are likely, consultation under the ESA will be necessary (See 50 C.F.R. § 402.14). As such, further coordination will be necessary with our Protected Resources Division to meet your obligations under section 7 of the ESA. Additionally, the information and analysis presented in your EIS will be essential in our future coordination and consultation on the proposed action.

Marine Mammal Protection Act

As provided in our October 17, 2012, letter, under the MMPA, the Secretary of Commerce, through NOAA, may authorize the take of small numbers of marine mammals incidental to otherwise lawful activities provided that the takings would have no more than a negligible impact on those marine mammal species and would not have an unmitigatable adverse impact on the availability of those species for subsistence uses. An activity has a "negligible impact" on a species or stock when it is determined that total taking by the activity is not reasonably likely to reduce annual rates of survival or annual recruitment (i.e., offspring survival, birth rates). Most incidental take authorizations to date have involved the incidental harassment of marine mammals by sound. In the event that any aspect of the project will result in a marine mammal "take," you or the project applicant would be responsible for obtaining an incidental take authorization in advance from us. See 16 U.S.C. §§ 1371(a)(5)(A) and (a)(5)(D).

Comments on Defined Project Elements

Project Alternatives Discussion

The National Environmental Policy Act (NEPA) requires that the environmental analysis includes a robust discussion of system, design, conservation, and other alternatives that could be used to address the stated project need. While the supplemental information provided for our consideration includes many appropriate sections for review, alternatives to be considered should be fully supported. In addition, the relative advantages and disadvantages for each alternative are presented to explain how each option fulfills the overarching goals of avoiding, minimizing, and mitigating the long and short term impacts as fully as practicable. This section also should describe why the proposed site is being considered over other regional alternatives. It will be critically important for the project proponents to justify why this location is the most suitable and least environmentally damaging alternative available and why other potential sites in the New York Bight were rejected. We specifically note that such an advanced stance on project siting is premature given that the initial ichthyoplankton, benthic invertebrate, and other natural resource inventories do not adequately characterize local populations.

Complete Project

The DEIS should include appropriate descriptive narrative for all project elements, including temporarily disturbed parcels on land that are necessary for staging or fabrication. The discussion should assess all direct, indirect and cumulative impacts associated with the project from the initial construction, to those that would accrue while the facilities are in operation, are being repaired or maintained, and ultimately are decommissioned. This will allow us to better understand the scope of the proposed action and the USCG/MARAD's analysis.

Water Intakes and Discharges

The information regarding the amount of water that would be used to hydrostatically test the pipe and details concerning the manner and conditions under which it would be drawn should be stated as clearly and thoroughly as possible. As the water is drawn, it will entrain various life stages of managed resources or their prey which will die. The EIS should include details on any and all methods or measures that would be observed to prevent entrainment and associated mortality. Closed cycle systems would greatly reduce the amount of water that would have to be drawn in for cooling and supplying the regassification vessel's "domestic" water supply. Similarly, the vessels will have intakes for receiving ballast water as the LNG is returned to a gaseous state and introduced into the lateral through the STL Buoy.

Water discharges related to the hydrostatic testing may include biocides. This discussion should include a complete explanation of what substances would be permitted for use, information on how the water would be rendered safe for discharge into the water way or otherwise disposed, and any other related information. Discharges from the tankers' regassification cooling systems would be thermally enriched and create a plume emanating from the discharge point. Mitigation, including foregoing use of open systems or requiring diffusers or other design features, could be used to mitigate thermal impacts or largely avoid them. We note that excess heat can kill or harm susceptible organisms by exceeding the temperatures they are capable of withstanding, and stimulating spikes in local biological oxygen demand. The thermal plumes associated with the regassification process also can create artificial thermal refuges that could entice semitropical fishes and

sea turtles to remain in the project past the period in the fall when they normally migrate to southerly waters, rendering them susceptible to hypothermia-related mortality. These and other threats should be included in the evaluation and considered in selecting the eventual preferred project alternative.

Whether they are physically entrained or adversely affected by thermally enriched discharges, organisms lost to the system are no longer available to recruit to fisheries, and thus, could result in fewer potential prey being available for survivors and other adverse impacts. The area engulfed in the plume potentially could include one or more of the NYSDEC reef sites or natural areas that provide similar functions. Hydrologic modeling is necessary to establish the likely areal extent and behavior of the plume under various conditions to understand whether the reefs or other sensitive areas in the general vicinity would be adversely affected by the thermal plume. The EIS should include all appropriate and practicable means of avoiding and minimizing these impacts.

Need for Enhanced Site Characteristics Studies

As noted in our completeness review comments, more robust studies are necessary to understand the species assemblage that is present at the proposed site alternatives in order to facilitate evaluation of project impacts on those biota. Since there is a seasonal component associated with different species and life stages, we suggest that any survey conducted for this project must include appropriately designed and sited investigations that provide both qualitative and quantitative information regarding the species present, their relative abundance, and other pertinent information.

Fisheries Information

We recommend that the applicant provide additional fisheries information, including information on the economic impacts of a potential fisheries exclusion zone. It is important to use current and accurate data and information in determining the potential impacts on historical, current and future fishing activities. The proposed DWP site is in area known as Cholera Bank. This area and the adjacent Middle Ground, Angler Bank, East of Cholera and Mussel grounds are all important recreational and commercial fishing grounds. The applicant should discuss the economic impacts caused by the creation of an exclusion zone that would preclude commercial and recreational fishing activity in the area. We recommend a discussion of ecological effects to fishery resources as a result of the exclusion of commercial fishing operations be included. For example, issues such as displacement of existing commercial fisheries into other areas resulting in increased fishing pressure to other locations need to be addressed.

We also recommend that you include in the NEPA document a comprehensive discussion of the socio-economic impacts resulting from the potential exclusion of commercial and recreational fishing operations within the vicinity of the DWP area. The NEPA document should also evaluate the regional impacts on fishing ports resulting from the potential closure of these fishing grounds due to LNG operations.

Cumulative Effects

We recommend that the applicant more clearly describe the relationship between the project and other projects in the area. The applicant notes the lease application by the New York Power Au-

thority to develop an offshore wind facility in close proximity to the proposed DWP location. While the applicant suggests the potential for compatible uses between the two facilities, the Port Ambrose project should consider cumulative effects of the two projects on fish habitat, fishery resources and commercial and recreational fishing activities.

Conclusion

Thank you for the opportunity to provide these comments in response to the NOI to prepare an EIS for the proposed Port Ambrose LNG Deepwater Port. We look forward to working with you as the project is better defined and the preferred alternatives are identified. If you have any questions regarding our habitat area of responsibility, please contact me at 978-281-9131. For ESA listed species issues, please contact Danielle Palmer of our Protected Resources Division (928-281-9468).

Sincerely,



Christopher Boelke
Field Office Supervisor
For Habitat Conservation

cc Colonel Paul Owen, ACOE
 Jodi MacDonald, ACOE
 Mark Prescott, USCG
 Eric Schradling, USFWS
 David Stillwell, USFWS
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 Linda Canzanelli, NPS
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16613

John Bullard
Greater Atlantic Regional Fisheries Office
National Marine Fisheries Service
United States Department of Commerce
55 Great Republic Drive
Gloucester, MA 01 930-2276

MAY 12 2015

Dear Mr. Bullard:

Thank you for your letter dated March 13, 2015, providing the National Oceanic & Atmospheric Administration Greater Atlantic Regional Fisheries Office's comments on the Draft Environmental Impact Statement (DEIS) for the Liberty Natural Gas LLC's Port Ambrose LNG deepwater port project.

I acknowledge and appreciate your interest in this project. As a general matter, we concur with the bulk of your comments; these matters will be discussed in the Port Ambrose Final EIS. However, I would like to address the following topics you highlighted as matters of specific concern. Because the first three topics are interrelated, our consolidated response is below in italics.

"2. Project Alternatives Discussion - We specifically note that such an advanced stance on project siting may be premature given that the initial ichthyoplankton, benthic invertebrate, and other natural resource inventories do not adequately characterize local populations.

3. Data gaps - The data gaps and issues of concern that were raised in our completeness review comments, including the need to collect site specific benthic sampling, should be completed and the results incorporated in the FEIS.

6. Need for Enhanced Site Characteristics Studies - As noted in our completeness review comments, more robust studies are necessary to understand the species assemblage that is present at the proposed site alternatives in order to facilitate evaluation of project impacts on those biota, including fisheries and benthic resources."

As with previous deepwater applications, we hold the opinion that where available scientific data is not comprehensive, precision is not always possible, and more projections and judgments are used. However, we will include in the Final EIS, to the extent the data is available, information on species assemblages at proposed site alternative locations. Additional site monitoring requirements may be imposed as a condition of the deepwater port license (if one is issued) and/or the Port Operations Manual.

LIBERTY NATURAL GAS LLC DEEPWATER PORT (USCG-2013-0363)

“4. Environmental Consequences - The FEIS should consider how changes in sea level, habitat use and local species assemblages are likely to unfold during the life of the project and what the consequences might be.”

I believe the current information contained in the DEIS properly analyzes the direct, indirect and cumulative impacts of the proposed action. In my opinion, it would be unreasonably speculative to attempt to determine how changes in sea level, habitat use, and local species assemblages are likely to unfold during the 25 year life of the project. However, to the extent the environmental project team can locate information responsive to these matters; we will include it in the Final EIS.

As currently proposed, the port will have a limited window of operation during periods of peak natural gas demand that occur during the summer and winter. The project is comprised of two Submerged Turret Loading buoys (STL buoys) (and associated subsea pipeline infrastructure) that will rest on the sea bed when cargo transfer operations are not occurring. With the exception of a marker buoy, there will be no permanent sea surface fixtures associated with the location or operation of the port. When liquefied natural gas cargo vessels arrive to transfer cargo, they will only remain at the port for a limited period of time. As such, I don't expect the operation of the port to be affected by changes in sea level, or adversely affect habitat relied upon by local species assemblages. (In fact, the safety zone required by the Deepwater Port Act may serve to provide beneficial habitat protection for species living in the affected area.)

In conclusion, when making a decision regarding a deepwater port application, the Maritime Administration must take into account the overall protection of the marine and coastal environments of the potentially affected areas. If Port Ambrose were to receive a license, as with every other licensed deepwater port, an acceptable and comprehensive environmental prevention, monitoring, and mitigation plan would be developed and incorporated as a condition of the license and/or Annex to the Port Operations Manual.

The U.S. Coast Guard appreciates your comments on this project and we look forward to continued coordination with your agency. If you have any questions, please contact Bradley McKittrick at 202-372-1443.

Sincerely,



W.A. Nabach
Lieutenant Commander, U.S. Coast Guard
Acting Chief, Vessel and Facility Operating
Standards Division



August 19, 2013

Mr. Franklin Keel
Regional Director
Eastern Regional Office
Bureau of Indian Affairs
545 Marriot Drive, Suite 700
Nashville, Tennessee 37214

**Subject: Deepwater Port License Application
Liberty Natural Gas LLC, Port Ambrose Deepwater Port
Federal Waters off of New York and New Jersey
Request for Tribal Consultation Information**

Dear Mr. Keel:

The Maritime Administration (MARAD), in coordination with the U.S. Coast Guard (USCG), will prepare an environmental impact statement (EIS) as part of the environmental review of the Port Ambrose Deepwater Port License Application. The application describes an offshore natural gas deepwater port facility that would be in the New York Bight. Pursuant to the criteria provided by the Deepwater Port Act of 1974, as amended, 33 U.S.C. 1501 *et seq.* (the Act), both New Jersey and New York are the Adjacent Coastal States for this application.

Liberty Natural Gas, LLC proposes to construct, own, and operate a liquefied natural gas (LNG) deepwater port, known as Port Ambrose. The Port Ambrose facility will be located at a different proposed location and include a different design than the previous deepwater port license application submitted by Liberty Natural Gas, LLC in 2010. Port Ambrose would consist of two Submerged Turret Loading Buoys (STL Buoys) in Federal waters approximately 17 nautical miles southeast of Jones Beach, New York, 24 nautical miles east of Long Branch, New Jersey, an about 27 nautical miles from the entrance to New York Harbor in a water depth of approximately 103 feet.


Under contract to the USCG, Tetra Tech is assisting USCG as a Third Party EIS consultant. On behalf of USCG, I request guidance on identification of appropriate Native American tribes that may be affected as a result of the construction and operation of this project. USCG would reach out to such tribes as per requirements under Section 106 of the National Historic Preservation Act of 1966, as amended. I would appreciate if it you would also send appropriate tribal contact names and addresses.

If you have any questions, please do not hesitate to reach me by telephone at (973) 630-8104 or by e-mail at sydne.marshall@tetrattech.com, or Mr. Tim Feehan, Tetra Tech Project Manager, at 617-443-5169 (tim.feehan@tetrattech.com).

Page 2 of 2
Mr. Franklin Keel
August 12, 2013

Thank you for your consideration of this request. I look forward to your response.

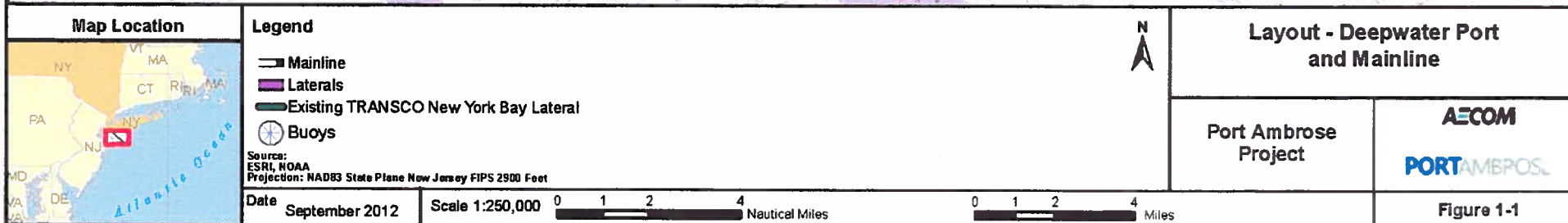
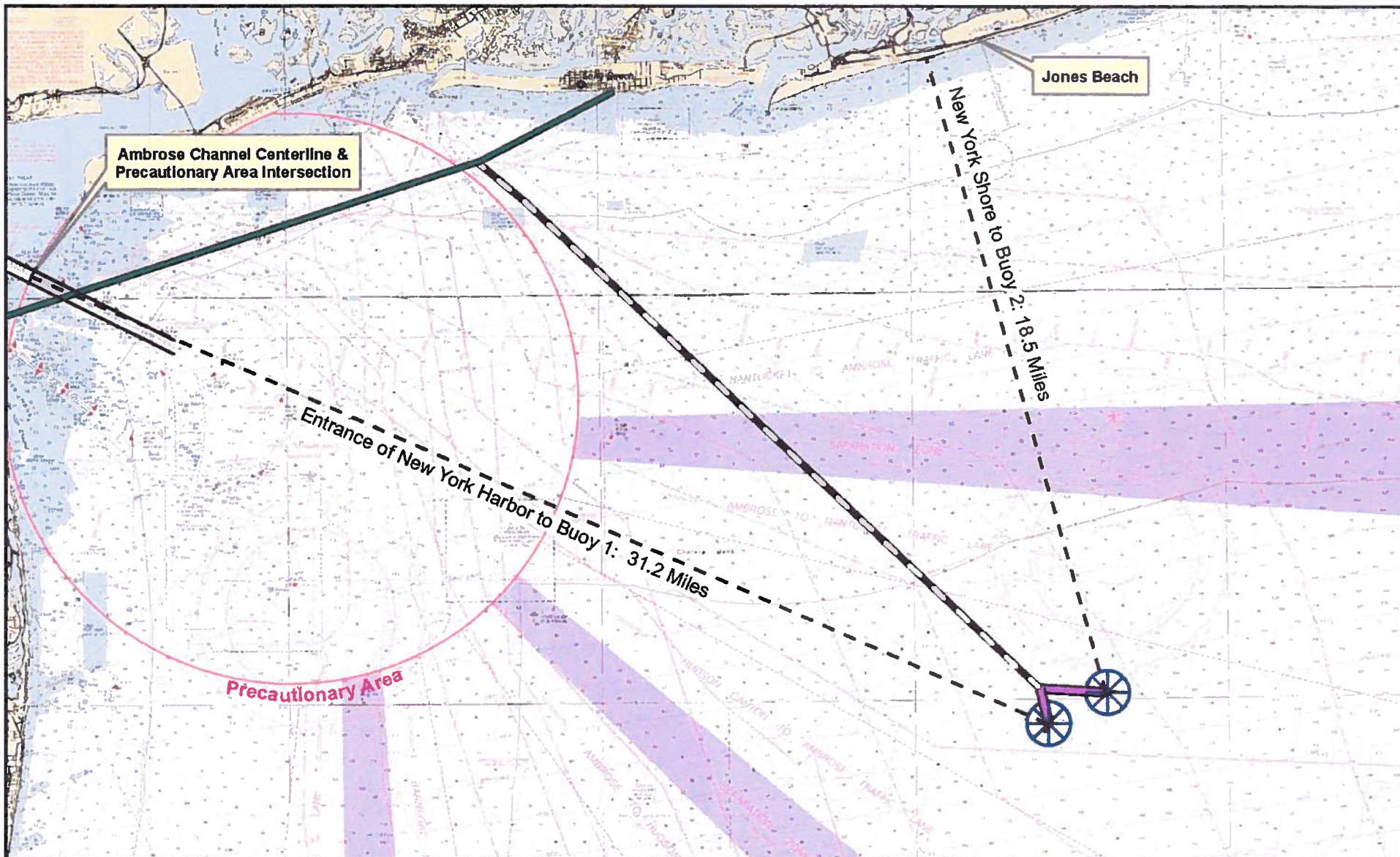
Sincerely,

A handwritten signature in black ink, appearing to read "Sydne B. Marshall". The signature is fluid and cursive, with the first name "Sydne" being more prominent.

Sydne B. Marshall, Ph.D., RPA
Cultural Resources Lead

Enclosure: Figure 1

cc: Roddy Bachman (USCG)
Curtis Borland (USCG)
Bradley McKittrick (USCG)
Tracey Ford (MARAD)
Wade Moorefield (MARAD)
Tim Feehan (Tetra Tech)
Sean Sparks (Tetra Tech)



U.S. Department of
Homeland Security

United States
Coast Guard



Commandant
United States Coast Guard

2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: CG-OES-4
Phone: (202) 372-1444
Fax: (202) 372-1926
Email: Curtis.E.Borland@uscg.mil

16613

AUG 08 2013

Steven Papa
U.S. Fish & Wildlife Service
Long Island Field Office
340 Smith Road
Shirley, NY 11967

Subject: REQUEST FOR INFORMAL CONSULTATION - LIBERTY NATURAL GAS LLC
DEEPWATER PORT (USCG-2013-0363)

Dear Mr. Papa:

On September 28, 2012, Liberty Natural Gas LLC (Liberty) submitted an application to own, construct, and operate a deepwater port (DWP). The proposed port would be located in Federal waters approximately 17 nautical miles southeast of Jones Beach, New York, approximately 24 nautical miles east of Long Branch, New Jersey, and about 27 nautical miles from the entrance to New York Harbor, in a water depth of approximately 103 feet.

Liquefied Natural Gas (LNG) would be delivered from purpose-built LNG regasification vessels, vaporized on site, and delivered through two Submerged Turret Loading Buoys (STL Buoys), flexible riser/umbilical, subsea pipeline and lateral pipelines to a buried 19 nautical mile subsea Mainline connecting to the existing Transco Lower New York Bay Lateral in New York State waters approximately 2.2 nautical miles south of Long Beach, New York and 13 nautical miles east of New Jersey. The buoys would be lowered to rest on a landing pad when not in use and would also include a pile-anchored mooring array. The Liberty deepwater license application is available for viewing and downloading from the Federal Docket Management Facility site at <http://www.regulations.gov>, Docket Number "USCG-2013-0363".

As stated in our Notice of Intent, dated June 24, 2013, the U.S. Coast Guard (USCG) and Maritime Administration (MARAD) are preparing an Environmental Impact Statement (EIS) as part of the processing of Liberty's license application. Past experience in analyzing the construction and operation of similarly situated deepwater ports leads us to make a preliminary conclusion that construction and operation of the Port Ambrose deepwater port may affect, but is not likely to adversely affect, species listed as threatened or endangered, or designated critical habitat, under the Endangered Species Act (ESA). However, we intend to fully analyze these matters in the EIS and look forward to your assistance in validating the data that is gathered.¹ The EIS is being prepared in accordance with the provisions of the Deepwater Port Act of 1974, as amended (33 U.S.C. §1501 et seq.); the National Environmental Policy Act 42 (U.S.C. § 4321 et seq.), as implemented by the Council on Environmental Quality regulations (40 C.F.R. §§ 1500-1508); USCG Commandant Instruction M16475.1D (National Environmental Policy Act

¹ If the analysis shows that there may be an adverse affect on listed species or critical habitat, the EIS would be submitted as our Biological Assessment/Evaluation of the proposed action to initiate formal consultation.

AUG 08 2013

Subj: REQUEST FOR INFORMAL CONSULTATION –
LIBERTY NATURAL GAS LLC DEEPWATER PORT (USCG-2013-0363)

16613

Implementing Procedures and Policy for Considering Environmental Impacts); Department of Homeland Security Directive 023-01 Environmental Planning program; and other appropriate and applicable regulations.

In accordance with Section 7 of the Endangered Species Act (ESA), as amended, we seek to informally consult with your office regarding the presence of federally-listed threatened and endangered species and critical habitat that may be affected by the Proposed Action. To fully assess the potential impacts associated with the Proposed Action, we request you provide us with a list of threatened and endangered species and designated critical habitat that occurs within the Region of Influence (ROI).

We will also consult with the National Oceanic and Atmospheric Administration (NOAA), Fisheries Protected Resources Division, regarding the presence of federally-listed threatened and endangered species and designated critical habitat under their jurisdiction and with NOAA Fisheries Habitat Conservation Division regarding essential fish habitat (EFH)

Tetra Tech is providing the USCG with technical assistance in preparation of the EIS. The USCG has designated Tetra Tech as the non-Federal representative for consultation purposes for this action.

Thank you for your assistance, we look forward to working with your office on this project. If you have any questions about the proposed Liberty application or about the EIS, you may contact Mr. Brad McKittrick of my staff at (202) 372-1443.

Sincerely,



C.E. Borland
Acting Chief
Deepwater Ports Standards Division
U.S. Coast Guard
By direction



Tracey L. Ford
Acting Director, Office of Deepwater
Ports and Offshore Activities
Maritime Administration

From: joseph.sieve@dot.gov
To: [Bachman, Roddy C CIV](#)
Cc: Meredith.secor@dot.gov; kenneth.lee@dot.gov; Robert.Smallcomb@dot.gov
Subject: Liberty Port Ambrose DWP - Design Meeting Request
Date: Tuesday, March 10, 2015 3:43:09 PM
Attachments: [PHMSA Response to DEIS Review 03102015.pdf](#)

Good afternoon Roddy,

The attached is PDF version of letter hand delivered this afternoon to the Dockets Management office at Room W12-140.

As previously mentioned, PHMSA requests a meeting during the design phase with the appropriate Coast Guard staff and Liberty applicants to discuss the Port Ambrose DWP. Some topics we would like to discuss include: USCG NVIC 03-05 document; USCG and DOT regulations and points of jurisdiction; maximum allowable working pressure; odorization; and pressure control and safety equipment protecting PHMSA regulated pipeline segments as they relate to the operation of the DWP.

Thank you

Joe

Joseph Sieve

General Engineer

U.S. Department of Transportation

Pipeline & Hazardous Materials Safety Administration

Office of Pipeline Safety

East Building, E22-207

1200 New Jersey Avenue, SE

Washington, DC 20590

Telephone: 202-366-5064

Fax: 202-493-2311

Cell: 202-480-0149



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

MAR 10 2015

1200 New Jersey Avenue, SE
Washington, D.C. 20590

U.S. Department of Transportation
Docket Management Facility (USCG-2013-0363)
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Attention: Mr. Curtis E. Borland
Acting Chief, Deepwater Ports Standards Division
U.S. Coast Guard

Subject: Liberty Port Ambrose Deepwater Port
Draft Environmental Impact Statement

Dear Mr. Borland:

Thank you for your December 5, 2014, submittal of the Draft Environmental Impact Statement (Draft EIS) for the Liberty Natural Gas LLC- Port Ambrose (Liberty) deepwater port (DWP) license application. With the Draft EIS, Liberty seeks a Federal license to construct, own, and operate a DWP for the import and regasification of liquefied natural gas in Federal waters off the coast of New York. A proposed subsea natural gas pipeline of Port Ambrose will be buried below the ocean floor and run from the DWP buoys to a point off Jones Beach, New York. From this point, the pipeline connects to the existing Transcontinental Gas Pipeline pipeline lateral that runs to Long Island, and then connects with the National Grid East system, formerly known as Keyspan East.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has authority to review offshore pipelines associated with deepwater ports for compliance with PHMSA regulations pursuant to The Deepwater Port Act of 1974 (33 C.F.R. § 148.3(c) and 49 CFR § 1.53(a)(3)). In conjunction with this authority, PHMSA has reviewed the Draft EIS.

Based on our review, PHMSA has no objection to the Draft EIS, provided that Liberty maintains the design, construction, testing, operation, and maintenance of the mainline and lateral pipelines for the Port Ambrose DWP are in accordance with the appropriate requirements found in 49 C.F.R. Part 190, 191, 192, and 199.

MAR 10 2015

2

Please contact Ken Lee, Director, Office of Engineering and Research on 202-366-2694 should you require additional information.

Sincerely,



Alan K. Mayberry, P.E.
Deputy Associate Administrator
Policy and Programs

cc: Roddy C. Bachman
Project Manager
Deepwater Ports Standards Division CG-OES-4 U.S. Coast Guard Headquarters

Byron Coy, Director
Eastern Region
PHMSA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

MAR 16 2015

Mr. Curtis Borland
Acting Chief, Deepwater Ports Standards Division
U.S. Coast Guard
2703 Martin Luther King Jr. Ave SE Stop 7509
Washington, D.C. 20593-7509

Dear Mr. Borland:

The U.S. Environmental Protection Agency has reviewed the draft environmental impact statement (DEIS) for the Port Ambrose Project Deepwater Port (CEQ # 20140356). Liberty Natural Gas, LLC proposes to own, construct, and operate the Port Ambrose deepwater liquified natural gas port in federal waters of the New York Bight, approximately 16.1 nautical miles off of Jones Beach, New York and 27.1 nautical miles from the entrance of New York Harbor. Liquified natural gas (LNG) would be delivered by purpose-built LNG regasification vessels, vaporized on board, and delivered through two permanently anchored submerged turret loading buoys, subsea manifolds and lateral pipelines to a buried mainline that will connect to the existing Transcontinental Gas Pipe Line Company's (TRANSCO) Lower New York Bay Lateral. Port Ambrose would be designed to transport an annual average of 400 million standard cubic feet per day of natural gas while the regasification vessels are in port. This review was conducted in accordance with Section 309 of the Clean Air Act, and the National Environmental Policy Act (NEPA).

EPA's technical comments on the draft environmental impact statement are enclosed with this letter. The comments address transportation, benthic impacts, general conformity, greenhouse gas emissions, and methane leakage prevention, as well as some general issues.

In light of the additional information recommended on potential environmental impacts from the proposed project, EPA has rated the DEIS as Environmental Concerns – Insufficient Information ("EC-2") (see enclosed rating sheet). If you have any questions regarding this review or our comments, please contact Lingard Knutson at 212-637-3747 or Knutson.lingard@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Judy-Ann Mitchell".

Judy-Ann Mitchell
Sustainability and Multimedia Programs Branch

Enclosures

**EPA's Technical Comments on the U.S. Coast Guard's
Draft Environmental Impact Statement
"Port Ambrose Project Deepwater Port Application – Docket No. USCG-2013-0363"
February 25, 2015**

Transportation:

Section 3.10.1 states that the regional transportation network in New York City and Northern New Jersey is managed by the Port Authority of New York and New Jersey. The Port Authority is only one of several state and local agencies that plan, construct and operate aspects of the regional transportation network. These would include state and city Departments of Transportation, metropolitan planning organizations and the Federal Highways Administration.

Benthic Impacts:

Both Sections 4.2.2.1 and 4.2.2.2 state that permanent benthic impacts from the construction and operation of Port Ambrose would be 3.0 acres of seafloor. However, it is not clear whether this included the anchor chain and wire array sweeping impacts when the buoys deploy or the flexible riser and umbilicals when the buoys are not deployed. This should be clarified.

General Conformity:

Nassau County, New York, the closest portion of the adjacent state is in non-attainment for ozone. As such, a General Conformity Applicability Analysis is required for the Port Ambrose Project. However, a General Conformity Applicability Analysis was not included in the draft environmental impact statement. If the applicability analysis is not included in the final environmental impact statement, and an analysis shows that the emissions from project construction are above the de minimus level, the Coast Guard would have to provide a separate public notice with a 30-day comment period. (40 CFR 93.156)

Greenhouse Gas Emissions:

In discussing greenhouse gas (GHG) emissions, the DEIS compares the project's operating emissions to total reported emissions worldwide. Recognizing that climate impacts are not attributable to any single action, but are exacerbated by a series of smaller decisions, we do not recommend comparing GHG emissions from a proposed action to global emissions. As noted by the CEQ revised draft guidance, "[t]his approach does not reveal anything beyond the nature of the climate change challenge itself: [t]he fact that diverse individual sources of emissions each make relatively small additions to global atmospheric GHG concentrations that collectively have huge impact."

Table 4.10-13 shows total GHG emissions from the proposed project operations per year. The document should state how many ships are expected each year to produce these emission totals.

Methane Leakage Prevention:

EPA recommends that the Coast Guard and applicant consider potential best management practices to reduce leakage of methane associated with operation of the Port Ambrose facility. EPA has compiled useful information on technologies and practices that can help reduce methane emissions from natural gas systems, including information regarding emission reduction options for Liquefied Natural Gas storage, import and export facilities.¹

¹ http://www.epa.gov/gasstar/methaneemissions/storage_import_export.html

General:

Section 2.0 - EPA recommends that Section 2 include a more detailed description of the project's operation. For example, the description should include how many LNG carriers will be expected to call on the port each year, and how long each carrier will be attached to the mooring. This will give stakeholders a better understanding of how Port Ambrose will work over time, and the expected environmental and navigational impacts.

In Table 4.3.2, the abbreviation MM should be defined, and placed in the list of acronyms and abbreviations.

Section 4.7.2.1 – Military Use. The final environmental impact statement should include the conclusions of any discussions with the Department of Defense (DOD) on military uses of the area, or whether it is likely that the proposed project would impact those, or other DOD uses.

Section 4.7.2.2 – Commercial Fishing. There is no Figure 3.8-1 in the draft environmental impact statement.

Section 4.7.4.1 – Scuba Diving. The section listed as 4.7.2.3 should be 4.7.2.1.

Section 4.7.6.4 - Using container equivalents as a comparison to vessels is incorrect and may mislead the public. While there may be 5 million 20-foot equivalents loaded and unloaded in the Port of New York and New Jersey (PONYNJ), it would be more reasonable to compare overall vessel calls to and from the PONYNJ to the visual impacts of the proposed project.

SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION
Environmental Impact of the Action

LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of environmental quality, public health or welfare. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommend for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1-Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analysis, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From: EPA Manual 1640, ↑ Policy and Procedures for the Review of Federal Actions Impacting the Environment. ↑↑



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
15 State Street – Suite 400
Boston, Massachusetts 02109-3572

March 18, 2015

9043.1
ER 14/0764

Commandant
Deepwater Ports Standards Division
U.S. Coast Guard Stop 7509
2703 Martin Luther King Jr. Ave., SE
Washington, DC 205

**RE: Draft Environmental Impact Statement (DEIS)
Liberty Natural Gas LLC Port Ambrose Deepwater Port
Docket Number USCG-2013-0363**

Dear Commandant:

The U.S. Department of the Interior (Department) has reviewed the DEIS for the Liberty Natural Gas LLC Port Ambrose Deepwater Port License Application, New York. The Department's comments were prepared by the U.S. Fish and Wildlife Service (Service).

COMMENTS

Project Description

The applicant is Liberty Natural Gas, LLC (hereinafter referred to as Liberty or Applicant). On September 28, 2012, an application was submitted to the USCG and Marine Administration (MARAD) seeking a federal license under the Deepwater Port Act (DWPA) of 1974, as amended [33 U.S.C. 1502(9)(A)], to construct, own, and operate a deepwater port for the import and regasification of liquefied natural gas (LNG) in federal waters of the New York Bight. LNG would be delivered from purpose-built LNG regasification vessels (LNGRVs), vaporized on site and delivered through subsea manifolds and lateral pipelines to a buried subsea mainline (Mainline) connecting to the existing Transcontinental Gas Pipe Line Company (Transco) Lower New York Bay Lateral in New York State waters.

Liberty proposes to locate the proposed Project in Bureau of Ocean Energy Management (BOEM) OCS (Offshore Continental Shelf) blocks 6708, 6709, and 6758, approximately 16.1 nautical miles off of Jones Beach, New York and 27.1 nautical miles from the entrance of New

York Harbor, 13.1 nautical miles east of Sandy Hook, New Jersey, and approximately 24.9 nautical miles from Long Branch, New Jersey. The 18.8-nautical-mile Mainline is proposed to connect to the existing Transco Lower New York Bay Lateral in New York state waters, approximately 2.2 nautical miles south of Long Beach, New York and 13.1 nautical miles east of Sandy Hook, New Jersey. The proposed Port facilities contained in the USCG and MARAD license application would consist of:

- Two subsea submerged turret loading buoys (STL™ Buoys);
- Two flexible risers; and
- Two pipeline end manifolds (PLEMs)

The proposed offshore pipeline facilities contained in the USCG and MARAD license application would consist of:

- Two 26-inch-diameter pipeline laterals, and
- One 18.8 nautical mile, 26-inch-diameter mainline

The proposed 26-inch mainline route would run approximately 16.8 nautical miles in a northwest direction through BOEM OCS lease blocks 6708, 6658, 6657, 6607, 6606, 6556, 6555, 6654, 6504, and 6503 where it would cross into New York state waters. The mainline would connect the proposed Port facilities to the Transco Lower New York Bay Lateral pipeline system approximately 2.2 nautical miles south of Long Beach, New York and 13.1 nautical miles east of Sandy Hook, New Jersey. The Region of Influence (ROI) for impacts on resources described in this draft EIS includes the area within and directly adjacent to the proposed Port location and proposed mainline route that could be affected by construction, operation, and decommissioning of the proposed Port Ambrose Project.

Fabrication of offshore components would require onshore facilities. A site on Quonset Point, Rhode Island, and a site on Port of Coeymans, New York have undergone initial review as potential locations for LNG regasification vessels (LNGRV) that would call on the proposed Port facilities would be purpose built to call on STL Buoys.

Construction of the proposed Project would be anticipated to take approximately 20 months over two calendar years. Off-site fabrication and pre-construction activities would commence in late 2016 and take approximately 9 to 12 months. Installation of the offshore components would begin in early 2017 and would take approximately nine months to complete. Construction and installation of the proposed Project would be completed in late fourth quarter 2017. The proposed Project would be designed, constructed, and operated in accordance with applicable codes and standards and would have an expected operating life of approximately 25 years.

Each STL Buoy would connect to a PLEM using the flexible riser assembly, and the PLEM would connect to the pipeline laterals. Purpose-built LNGRVs, each capable of transporting approximately 145,000 cubic meters of LNG, would connect to a STL Buoy to deliver natural gas to the proposed Mainline. Once securely moored and when system safety checks are

complete, the LNGRV would vaporize the LNG using a two-step “closed-loop” system. The closed-loop system would use a recirculated water-glycol mixture as an intermediate heating medium, heated by steam generated by the vessel’s two auxiliary boilers, which would be fired by boil-off gas (BOG) from the vessel’s LNG tanks, consuming approximately 2.5 percent of each LNGRV’s LNG cargo in the process.

Endangered Species Act

Section 7 (a)(2) of the ESA requires that each Federal action agency, in consultation with the Service, ensures that any action it authorizes, funds, or carries out would not be likely to jeopardize the continued existence of a listed species or result in the adverse modification of designated critical habitat. The ESA is further implemented by regulation found at 50 CFR §402, “Interagency Cooperation – Endangered Species Act of 1973, as Amended; Final Rule,” which is frequently referenced below in the discussion on the consultation process.

As part of the requirements of Section 7(a)(2) of the ESA, the action agency is required to make a determination of the potential direct, indirect, and cumulative effects of its proposed action on Federally-listed species. Informal consultation is an optional process that includes all discussions, correspondence, etc., between the action agency and the Service, designed to assist the action agency in making a determination on whether the agency’s action may affect a listed species. During this informal consultation process, the Service may provide recommendations to the action agency on the measures that could be implemented to avoid and minimize adverse effects to listed species. In addition, the Service can provide available information (or references) regarding these species and critical habitat, and may recommend discretionary studies or surveys that may provide a better information base for the preparation of the Biological Assessment (BA) [50 CFR Part 402.12 (d)(2)].

The contents of a BA are at the discretion of the action agency; however, 50 CFR Part 402.12(f) recommends including: (1) results of on-site inspections determining the presence of listed or proposed species, (2) views of recognized experts on the species at issue, (3) a review of the literature and other information, (4) an analysis of the effects of the action on the species or habitat, including consideration of cumulative effects and the results of related studies; and, (5) an analysis of alternate actions considered by the Federal agency for the proposed action. Sometimes information in other environmental analysis documents can substitute or be easily modified to produce the BA. However, once finalized, the action agency is required to submit the BA to this office for concurrence [50 CFR Part 402.12 (d)]. The ultimate responsibility of compliance remains with the Federal agency, however, the Federal action agency can designate a non-Federal representative to conduct informal consultation or prepare a biological assessment by giving written notice to the Service of such designation, as provided for in 50 CFR Part 402.08.

If adverse effects cannot be avoided, formal Section 7 consultation will be required, and according to Section 7(d) of the ESA, "After initiation of consultation required under subsection (a)(2), the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2)."

The DEIS at page 1-11 states that sections 2.0 (Description of the Proposed Action and Alternatives), 3.3 (Affected Environmental, Threatened and Endangered Marine Mammals, Sea Turtles, Fish and Birds), and 4.3 (Environmental Consequences of the Proposed Action and Alternative, Threatened and Endangered Marine Mammals, Sea Turtles, Fish and Birds) serve as the BA for purposes of ESA consultation.

Federally-listed Species in the Proposed Project Area

Table 3.3-1 entitled, “Species Occurrence and Potential for Occurrence in ROI” includes a list of federally-listed species under the jurisdiction of the Service and National Oceanic and Atmospheric Administration (NOAA), which are or may be present, in the proposed offshore Port area. The piping plover (*Charadrius melodus*) and roseate tern (*Sterna dougallii dougallii*) are included in this table. This table does not include the red knot (*Calidris canutus rufa*) which was listed as threatened in November 2014. The northern long-eared bat (*Myotis septentrionalis*), a proposed species for listing under the ESA should also be included in Table 3.3-1. The Service notes that Section 3.3.1, “Identified Species and General Characteristics” does not include discussion of piping plover, red knot or northern long-eared bat (proposed).

As noted, the Federally-listed piping plover and roseate tern are two Federally-listed species found on bay island and barrier beaches in the New York Bight watershed. The red knot is also a listed species which migrates through the New York Bight area. The migratory pathways of these species are not well established relative to the proposed project site. As such, a significant amount of attention has been directed at the potential adverse impacts that offshore facilities may pose to these listed, particularly related to collisions between these species and illuminated offshore structures and impacts to the species and their habitats due to the accidental ignition of LNG.

USCG ESA Determination

The DEIS at section 4.3.5 (page 4-94) indicates that the USCG has reached a determination that the proposed project may affect, but would not be likely to adversely affect the piping plover or roseate tern. This determination is based on the conclusion that there would be long-term, minor impacts to these species as a result of the construction, operation or decommissioning of the proposed project, and that this would not result in population level effects to the species.

As noted in the DEIS Table 4.2-5 (at pages 4-61-62), further consultation will be necessary between the USCG and the Service to develop a lighting plan to minimize adverse impacts on wildlife during the construction, operation, and decommissioning of the proposed Port.

Endangered Species Act Comments

The Service looks forward to working with the USCG to develop a lighting and monitoring plan that could be included in the project description. Once finalized, the Service will work with the USCG to conclude consultation.

The DEIS should describe any potential impacts the proposed project may have on the proposed northern long eared bat and the listed red knot, including impacts to the species or their habitats.

We recommend that the USCG review and address the following questions relative to this proposal and its affects on migrating birds, including the listed species noted above.

- Are the migration routes of these species along the coast or offshore? At what distance and at what altitudes?
- Do the migrating piping plovers, roseate terns or red knots fly during the day, night, or both?
- If either of the species fly at night, are they affected by (attracted to, disoriented by) aviation warning lights?
- Are these species' migration patterns the same in the spring and fall?

To be in compliance with Section 7 of the ESA, the Service is asked to consider that his DEIS be used as a biological assessment. At this time, the DEIS does not contain sufficient information, such as a final lighting plan, to support a not likely to adversely affect determination with respect to listed avian species.

Impacts of Project to Birds

The project area supports a number of marine bird species, generally characterized as seabirds and sea ducks. The document characterizes the major types of birds likely to be present in the New York Bight, but no site-specific surveys were conducted. There are approximately 30 species of birds that may be found in the project area; common avian taxa anticipated include petrels, shearwaters, loons, gannets, scoters, mergansers, gulls and kittiwakes. Bird densities are likely to be greater during the winter and also during spring/fall migrations.

The proposed project may adversely impact birds if lighting attracts and disorients birds and if tall structures at the facility pose a strike hazard. Shearwaters and petrels, for example, have been shown to be distracted and disoriented by artificial lighting, leading to mortality of fledglings (Reed et al. 1985). The applicant has indicated that they will develop a final lighting plan in consultation with the Service.

Thank you for the opportunity to review and comment on the DEIS. Please pardon any inconvenience caused by the late submission of comments. If you have questions regarding these comments, please contact Steve Papa, U.S. Fish and Wildlife Service, at (631) 286-0485. Please contact me at (617) 223-8565 if I can be of further assistance.



Andrew L. Raddant
Regional Environmental Officer

LITERATURE CITED

Reed, J.R., Sincock, J.L. and J.P. Hailman. 1985. Light Attraction in Endangered Procellariiform Birds: Reduction by Shielding Upward Radiation. *Auk* 102: 377- 383.

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JOSEPH MARTENS, COMMISSIONER

March 16, 2015

ATTN: Roddy C. Bachman
Project Manager
Deepwater Ports Standards Division

Department of Transportation
Docket Management Facility
West Building, Ground Floor
Room W12-140
1200 New Jersey Avenue SE
Washington, DC 20590-0001

RE: USCG-2013-0363
Liberty Natural Gas LLC, Port Ambrose Liquefied Natural
Gas (LNG) Deepwater Port License Application
Draft Environmental Impact Statement

Dear Mr. Bachman:

This letter and attached documents (Appendix A, B) constitute the combined comments of the New York State Department of State (NYSDOS) and the New York State Department of Environmental Conservation (NYSDEC) (collectively "the Agencies") following their review of the Draft Environmental Impact Statement (DEIS) for the proposed Port Ambrose liquefied natural gas (LNG) deepwater port ("Port Ambrose").

Port Ambrose is proposed for a location approximately 16 nautical miles from Jones Beach State Park in New York. The project as proposed would consist of: two subsea submerged turret loading buoys (STL™ Buoys), each connected to its own separate system including a flexible riser, a pipeline end manifold (PLEM), and a 26-inch-diameter pipeline lateral, all of which would be connected to one approximately 19 nautical mile, 26-inch-diameter mainline gas pipeline. This mainline is proposed to connect to the existing Transco Lower New York Bay Lateral. The entire Port Ambrose facility is proposed for waters under federal jurisdiction, with the exception of the last approximately 2 nautical miles of the mainline, which would be located in New York State waters.

The Agencies are reviewing the portion of Port Ambrose proposed for locations in Atlantic Ocean waters under federal jurisdiction in accordance with State review authorities pursuant to the federal Deepwater Port Act (DWPA; 33 U.S.C. § 1501 et seq.), Coastal Zone Management Act (CZMA; 16 U.S.C. § 1451 et seq.; see also 33 U.S.C. §1503 (c)(9)), and National Environmental Policy Act (NEPA; 42 U.S.C. § 4321 et seq.). The Agencies are reviewing the elements of Port Ambrose in State waters primarily pursuant to the DWPA, the CZMA, NEPA, the Clean Water Act (CWA; 33 U.S.C. § 1251 et seq.) and the State Environmental Quality Review Act (SEQRA; New York State Environmental Conservation Law, Article 8) and New York State's Water Pollution Control statute and associated regulations (Environmental Conservation Law Article 17 and 6 NYCRR Parts 700 et seq.).



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Conservation**

Roddy C. Bachman
Project Manager
Page 2

Port Ambrose requires a significant review by New York, a designated adjacent coastal state under the DWPA. As detailed in the attached comments, the Agencies request that the Final Environmental Impact Statement (FEIS) include additional analyses important to the State's decision-making responsibilities.

For additional information and/or questions regarding the NYSDOS comments, please contact Mr. Michael Snyder (518-486-4644; Michael.snyder@dos.ny.gov). For additional information and/or questions regarding the NYSDEC comments, please contact Mr. Kevin Kispert (631-444-0369; kevin.kispert@dec.ny.gov).

Sincerely,



Gregory Capobianco
Office of Planning and Development
Department of State



Kevin Kispert
Region 1 Main Office
Department of Environmental Conservation

CC: USCG: Daniel Hubbard
MarAd: Yvette Fields, Wade Morefield
TetraTech: Timothy Feehan, Sean Sparks
NYSDEC: William Little
NYSDOS: Kari Gathen, Michael Snyder

APPENDIX A

NYSDOS Staff Comments on USCG/MARAD DEIS

Port Ambrose Offshore LNG transfer facility

The New York State Department of State (NYSDOS) has authority to review the proposed Port Ambrose facility located in the Atlantic Ocean waters under State or federal jurisdiction pursuant to the federal Deepwater Port Act (DWPA; 33 U.S.C. § 1501 et seq.), Coastal Zone Management Act (CZMA; 16 U.S.C. § 1451 et seq.; *see also* 33 U.S.C. §1503 (c)(9)), and National Environmental Policy Act (NEPA; 42 U.S.C. § 4321 et seq.), and offers the following comments on the USCG/MARAD DEIS.

I. Description of the Proposed Action and Alternatives (DEIS Section 2)

Location of the Port Ambrose Mainline

DEIS Figure 2.1-2, p. 2-4: NYSDOS requests clarification on the intersection point between the Port Ambrose mainline and the existing Transco Lower New York Bay Lateral pipeline. See related comment below on Draft Environmental Impact Statement (DEIS) Figure 3.7-1 regarding the need to clarify the exact location of the existing Transco pipeline.

Analysis of Deepwater Port Location Alternatives

DEIS 2.2.1.3, pp.2-36 through 2-42: The analysis of Study Area C does not sufficiently identify the potential for displacement of an offshore wind energy facility proposed by the New York Power Authority (NYPA). NYPA has submitted a non-competitive lease application to the Bureau of Ocean Energy Management (BOEM) and has identified an area of OCS lease blocks for this facility.¹ The proposed location for Port Ambrose is in the approximate center of the OCS lease area requested by NYPA. See comment below on DEIS 6.1.1.6 regarding specific analysis requests.

Identification of Deepwater Port Location Reasonable Alternatives

DEIS Figure 2.2-1: The alternatives analysis does not identify or analyze all reasonable alternative locations. NYSDOS requests the DEIS alternatives analysis be expanded to study the general area east of Study Area C as an alternative location. This area may meet the project requirements specified by the applicant and the DWPA regulations, but was not identified in the DEIS.

II. Description of the Affected Environment (DEIS Section 3)

Existing Offshore Pipelines

DEIS Figure 3.7-1, p. 3-62: Figure 3.7.1 on page 3-62 of the DEIS appears to depict two separate pipelines labelled “Pipeline” and “Existing TRANSCO Pipeline” in close proximity of each other. The DEIS does not describe two pipelines in this area and NYSDOS is unaware of a pipeline in this area other than the Transco pipeline. This figure should be revised to show only the accurate location of the Transco pipeline. Conforming edits should be made throughout the DEIS, as necessary.

¹ http://www.boem.gov/uploadedFiles/BOEM/Renewable_Energy_Program/State_Activities/BOEM%20LI-NYCAApplication09082011%282%29.pdf amended at http://www.boem.gov/uploadedFiles/BOEM/Renewable_Energy_Program/State_Activities/NYPA%20to%20BOEM%20amending%20application%2006202012.pdf

III. Cumulative Impacts (DEIS Section 6)

Existing and Proposed Transmission Line Projects

DEIS 6.1.1.4, p. 6-6: The DEIS states that “[t]he proposed Mainline would be parallel to and/or would cross the underwater portion of the Poseidon Project’s HVDC line” (DEIS p.6-7). NYSDOS requests additional information be included in the DEIS to address how the two projects would co-locate at the point of intersection. For similar concerns related to co-location with the Neptune project, please see attached comments from NYSDEC (Appendix B - NYSDEC).

Project Mitigation and Impacts on Proposed Wind Energy Project

DEIS 6.1.1.6 p.6-7: The DEIS provides no additional analysis of the overlap in project footprints between Port Ambrose and the NYPA offshore wind project beyond those assumed by the applicant. The DEIS instead states that “[t]he USCG is currently working on guidance to address...safe setback distances.” NYSDOS continues to support the USCG’s development of clear guidance on setback distances between offshore wind projects and transiting vessels and requests this guidance be included as a component of the Port Ambrose license review process. This guidance will inform New York’s review of the proposed facility under the Deepwater Port Act and the federal Coastal Zone Management Act, as well as NYSDOS’ offshore wind planning efforts conducted in collaboration with USCG.

APPENDIX B

NYSDEC Staff Comments on USCG/MARAD DEIS

Port Ambrose Offshore LNG transfer facility

I. Marine Fish and Habitat Resources

The Atlantic Beach Artificial Reef

New York State Department of Environmental Conservation (NYSDEC) authority applicable to the Atlantic Beach Artificial Reef are found at Environmental Conservation Law (ECL) Sections 11-0105 (State ownership and control), 11-0303 (Management of fish and wildlife resources), and 13-0105 (Marine fisheries conservation and management). Also see the *Final Generic Environmental Impact Statement and Plan for the Development and Management of Artificial Reefs in New York's Marine and Coastal District*, Division of Marine Resources, NYSDEC, Stony Brook, N.Y. (1993).

DEIS at 3.7.1.8 (and others) and Topic Report 6, Page 6-4: The proposed pipeline (mainline) for the project is in close proximity to Atlantic Beach Artificial Reef, an important recreational fishing area, where it traverses New York State waters to its tie-in with the Transco Pipeline. There is a discrepancy between Topic Report 6, prepared by Liberty Natural Gas, and the Draft Environmental Impact Statement (DEIS) regarding the distance of the pipeline to the boundaries of the reef. Topic Report 6 locates the pipeline 845 feet from the northeast corner of the reef while the DEIS places the pipeline at over 3000 feet (0.6 miles) from the reef. This discrepancy should be explained and rectified in the Final EIS (FEIS). An accurate description of the distance to Atlantic Beach Reef is necessary because if the pipeline becomes located at the distance indicated by Liberty, the Reef would fall within the zone indicated by the DEIS that will experience moderate total suspended solids (TSS) and sediment deposition levels during pipeline construction.

The FEIS should model TSS and sediment deposition in New York State waters under worst case conditions for Atlantic Beach Reef (strong currents to the west). Note that the modeling done for the Rockaway Delivery Lateral Project in Resource Report 02, *Hydrodynamic and Sediment Transport Analyses for the Rockaway Delivery lateral Project*, App. 2D, Dec. 21, 2012, as part of the application of Transcontinental Gas Pipeline Corp. to the Federal Energy Regulatory Commission filed January 4, 2013 (CP13-36), and supporting documentation, showed a different pattern of TSS and sediment deposition with approximately equal TSS and sediment deposition impacts on either side of the midline. NYSDEC understands that conditions at the proposed project may be different because it would be located inshore and to the west, but it would be fairly close and may indicate that sediment can impact the reef. The FEIS should also discuss whether construction can be timed to occur during periods of reduced fishing activity and lesser biological activity.

Impacts on Commercial Fishing

NYSDEC generally regulates the marine fishery and habitat pursuant to ECL Sections 11-0303 (Management of fish and wildlife resources), 11-1303 (Open seasons, size and catch limits and manner of taking fish fixed by regulation), 13-0105 (Marine fisheries conservation and management), 13-0339 (Marine fish; size limits of marine species; sale of marine species), 13-0341 (Trawls; use prohibited in certain waters), 13-0343 (Nets other than trawls; restrictions on use of nets and trawls), 13-0349 (Taking of fish for commercial purposes), 13-0360 (Special management areas [including artificial reefs]), 13-0371 (Atlantic States Marine Fisheries Compact), as well as numerous provisions providing NYSDEC authority to manage fishing of specific species such as winter flounder and Black sea bass. NYSDEC's regulations promulgated at Part 40 of Title 6 of the New York Code of Rules and Regulations (NYCRR) also apply for Marine Fish. For Shellfisheries see ECL Sections 11-0305, 11-0309 and 6 NYCRR Part 43 (Surf Clam/ Ocean Quahog Fishery Management).

DEIS 2.1.15, p. 2-18: The project will restrict commercial fishing (and other activities including recreational fishing) through the Closed Safety Zone, No Anchoring Areas and Area to be Avoided that can be as large as 2.4 square miles around each STL buoy. This presents a high risk of a long-term displacement of commercial fishing opportunities in these areas. Figure 4-5 of Liberty's Topic Report 4 recognizes that some commercial fishing activity will be displaced by the location of the deep water port. Based on the figures provided in the DEIS, commercial fishing activities may not occur as frequently in the area where the LNG vessels will berth. In considering the merits of compensatory mitigation for impacts from the project as a whole, recommended below, the FEIS should also take impacts to this area into consideration.

DEIS 2.1.11, p. 2-15: The FEIS should address the extent to which surf clam dredging activity would interact with the concrete mats to be placed over the Neptune cable and whether or how impacts to the surf clam harvest can be avoided or, if unavoidable, mitigated. Construction of the mainline as it approaches and crosses the Neptune cable would involve placing protective concrete mats over the cable because the pipeline would not be buried as deeply. The mats would be buried for some of the pipeline length and extend up to 3.5 feet above the mudline where the cable crossing takes place. The edges of the concrete mats would be buried to a 3 foot depth to prevent interaction with fishing gear. However, extension of the concrete mats above the mudline may affect surf clam dredge activity in an area of about 0.1 acre and could affect the track that surf clam dredges take. Hydraulic surf clam dredges are more likely to be impacted by hard structures above the mudline because they are not designed to roll over such structures as other types of fishing gear.

Atlantic Sturgeon

NYSDEC regulates the endangered Atlantic sturgeon pursuant to its authority in ECL Sections 11-0105, 11-0303, 13-0105, and 13-0371 (Atlantic States Marine Fisheries Compact).

DEIS at 4.3.4, p. 4-94: In light of impacts identified in the DEIS, NYSDEC requests that pipeline construction activities avoid periods when large concentrations of Atlantic sturgeon are present in the project area. Recent information (unavailable for distribution at this time)

provided to NYSDEC by researchers at the State University of New York at Stonybrook, School of Marine and Atmospheric Sciences, shows that Atlantic sturgeon congregate in New York State waters (and to a lesser extent in federal waters) in both spring (generally April – June, with peaks in May) and fall (generally September – November). The DEIS speculates (DEIS 4.3.6, p. 4-95) that sturgeon would avoid construction activities, but this discussion was apparently centered on noise impacts. It is not clear whether sturgeon would avoid or be attracted by the pipeline construction activities (due to release of benthic organisms that sturgeon use for food), but it would be preferable to avoid construction in New York State waters when sturgeon abundance is high. The FEIS should identify and evaluate a modified construction schedule that reduces the chances for interactions with Atlantic sturgeon.

Post Construction Monitoring

NYSDEC's authority with respect to post construction monitoring arises from ECL Sections 11-0303 (Management of fish and wildlife resources) and 13-0105 (Marine fisheries conservation and management). NYSDEC requests that a plan for a post-construction bathymetric survey and post-construction benthic monitoring be developed to document that the pipeline trench has been adequately re-filled and the benthic community has been restored.

Compensatory Mitigation

NYSDEC's authority with respect to post construction monitoring arises from ECL Sections 11-0303 (Management of fish and wildlife resources) and 13-0105 (Marine fisheries conservation and management) as well as ECL Article 8 (the State Environmental Quality Review Act). In its scoping comments provided via October 17, 2012 and August 8, 2013 letters, the National Marine Fisheries Service (NMFS) requested that the DEIS discuss the potential need for compensatory mitigation due to the long-term and short-term impacts of the project. NYSDEC did not see any such discussion in the document but notes that, in the Transco Lateral project, a similar but smaller project, compensatory mitigation is being performed for development of an Environmental Analysis and addition of material to Rockaway Reef. NYSDEC concurs with NMFS on the need to discuss compensatory mitigation in the FEIS to address potential long- and short-term impacts to commercial and recreational fishing, marine habitat of Atlantic Beach Artificial Reef, and marine habitat in the vicinity of the port and pipeline facility.

II. Threatened and Endangered Species

DEIS Section 3 – Affected Environment

P. 3-21. The citations and information regarding ocean populations of Atlantic sturgeon movements and aggregations along the coast of Long Island are out-dated. More recent information is available and should be included. Please see:

Dunton et al. 2010. Abundance and distribution of Atlantic sturgeon (*Acipenser oxyrinchus*) within the Northwest Atlantic Ocean, determined from five fishery-independent surveys. *Fishery Bulletin*. 108 (4) pp. 450-465.

P. 3-25. The DEIS refers to a “small take authorization”. NYSDEC Staff believes this should be changed to indicate that National Oceanic and Atmospheric Administration (NOAA), Fisheries may issue an Incidental Take Authorization for a small number of takes which must have no more than a “negligible impact”.

P. 3-26. The best recent population estimate for Minke whales in the NE Atlantic is 20,741 according to NOAA. White-sided dolphins estimate is 48,819. Estimate for Harbor porpoises in the northeast Atlantic is 79,883. See:

Waring *et al.* 2014. U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments -- 2013. NOAA Tech Memo NMFS NE 228; p. 464.

P. 3-35. NYSDEC Staff finds the second paragraph confusing as written because it indicates the U.S. Coast Guard (USCG) is responsible for determining whether the proposed project would adversely affect federally listed threatened or endangered species and their critical habitat. However, the text of Section 7 of the Endangered Species Act (16 U.S.C.A. Sections 1531 – 1544) reads: "(c)(1) To facilitate compliance with the requirements of subsection (a)(2) each Federal agency shall . . . request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action. If the Secretary advises, based on the best scientific and commercial data available, that such species may be present, such agency shall conduct a biological assessment for the purpose of identifying any endangered species or threatened species which is likely to be affected by such action."

Staff believes it is the U.S. Fish and Wildlife Service (USFWS) or NOAA, not USCG, who will determine whether or not a species or habitat might be affected by the project. The Biological Assessment would then be prepared by the applicant federal agency, USCG, under the supervision of USFWS or NOAA.

Table 3.3-4. Atlantic sturgeon should be Common, Seasonal, primarily in depths <20 m.

Information on whales starting on P. 3-38. The best and most recent population estimates for most of these whale species can be found in:

Waring *et al.* 2014. U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments -- 2013. NOAA Tech Memo NMFS NE 228; 464 p.

P. 3-39. Right whales were formerly believed to use the Mid-Atlantic only as a migratory corridor; however, this may be changing as they have recently been seen year round off New Jersey. From the NYSDEC Natural Heritage Program whale workshop report: Schlesinger, M. D. and L. A. Bonacci. 2014. Baseline monitoring of large whales in the New York Bight. New York Natural Heritage Program and NYSDEC, Albany and East Setauket, New York:

The North Atlantic right whale is among the rarest globally of the great whales and appears to use the New York Bight as a migratory corridor between winter calving

grounds to the south and summer feeding grounds to the north. However, historically, they were caught regularly off Long island in the late winter and spring in the late 1600s and early 1700s by shore whalers (Reeves and Mitchell 1986). This species is infrequently but regularly detected in the Bight, with at least one sighting each year from the 1970s to early 1990s (Sadove and Cardinale 1993) and presence confirmed on about 20% of days during the Cornell Lab of Ornithology's (2010) passive acoustic study. More than any other great whales, right whales hug the coastline, putting them at increased risk of interaction with ship traffic (Kraus *et al.* 2005, Firestone *et al.* 2008). Additionally, recent studies in nearby areas off of New Jersey observed right whales year round, including mother calf pairs that appeared to be feeding (Whitt *et al.* 2013). Studies have found that this behavior puts them at greater risk of being hit by vessel (Parks *et al.* 2012).

P. 3-42. Kemp's Ridley Sea Turtles are still designated as critically endangered; however, NOAA considers them to be in the early stages of recovery (no longer in imminent danger of extinction): <http://www.nmfs.noaa.gov/pr/species/turtles/kempstridley.htm>

P. 3-96. There is a paper on the effects of noise exposure on Lake Sturgeon that could be helpful for evaluating effects on Atlantic sturgeon:

Halvorsen *et al.* 2012. Effects of exposure to pile-driving sounds on the lake sturgeon, Nile tilapia and hogchoker. *Proc. R. Soc. B.* 279, 4705-4714.

DEIS Section 4 - Environmental Consequences of Proposed action & Alternatives

Table 4.3-1. Atlantic sturgeon should be Common, Seasonal.

P. 4-41. The document should consider more current references for Right whales. The following holds that the whales may ignore ship noise, but it makes them more vulnerable to ship strike:

Nowacek *et al.* 2004. North Atlantic right whales (*Eubalaena glacialis*) ignore ships but respond to alerting stimuli. *Proc. Biol. Sci.* 271(1536):227-231.

Rolland *et al.* 2012. Evidence that ship noise increase stress in right whales. *Proc. R. Soc. B.* 279. 1737:2363-2368.

III. Impingement and Entrainment

NPDES Application p. 4, and DEIS 2.1.5.1:

NYSDEC regulates cooling water intakes structures pursuant to its authority in 6 NYCRR section 704.5, which is virtually identical to Section 316(b) of the Federal Water Pollution Control Act. See 33 U.S.C.A. Section 1326(b). It is through its 6 NYCRR Section 704.5 authority that NYSDEC minimizes adverse impacts to aquatic species from impingement and entrainment. However, NYSDEC also protects against impingement and entrainment

through its authority to protect the best usages of waters, such as for fish propagation and survival, as set forth in 6 NYCRR Section 701.10 – 701.14 (Classifications for Surface Saline Waters).

There will be little to no impingement mortality caused by this facility's intake of water due to the low intake velocity. However, entrainment will occur during the 20 to 45-day construction ("Commissioning") window, resulting from cooling water withdrawals. This temporary withdrawal may be subject to Clean Water Act Section 316(b) Phase III Rule requiring that the best technology available (BTA) be applied to qualifying cooling water intake structures. For purposes of imposing BTA, NYSDEC Staff notes that the adverse impact of this entrainment could be minimized by scheduling Commissioning during the time of year when ichthyoplankton would be at the lowest density (*e.g.* fall and winter), and this could reduce the estimated one-time entrainment of approximately 50 million fish eggs and larvae.

DEIS 4.2.3.2 page 4-21: Entrainment during facility operation will occur during withdrawal of bilge water. Approximately 40 million eggs and 6 million larvae (Appendix J) will be entrained in bilge water annually, of which Atlantic mackerel eggs comprise 72%. One option that warrants exploration to reduce the entrainment at Port Ambrose is the installation of smaller slot width screens on the LNG vessels' "screened sea chests" (*i.e.* 1.0 mm or less slot width). If it is determined that BTA does not apply, entrainment impacts would nevertheless still be minimized using the above methods.

IV. Water Quality

A water quality certificate (WQC) is a statement from the State agency responsible for water quality indicating that the project will comply with State water quality standards. Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. Section 1341) requires that certain federal activities, including projects that require federal permits such as U.S. Army Corps of Engineers Federal Water Pollution Control Act Section 404 Permits and Federal Energy Regulatory Commission licenses, must obtain a WQC from the State. NYSDEC provides companion regulations to determine whether to issue WQCs at 6 NYCRR Section 608.9.

Application Volume 3.0, Affected Environment Section 3.5.6 Sediment Quality (p. 3-57): Sediment grab sampling was performed during the geophysical survey in 2012 and sediment chemistry core testing was performed in 2013. The chemical results from these sediment sampling events have not been included in the DEIS and should be included to complete the analysis contained in the FEIS.

Section 3.1.2, Water Quality (Volume 3.0 Affected Environment) (p. 3-10): The NYSDEC water quality classification for state jurisdictional waters is incorrectly listed as class SB for marine waters. The location of this portion of the project is in Class SA waters and the FEIS

should be corrected throughout to reflect this classification. See NYSDEC's regulation for best usages of Class SA waters at 6 NYCRR §701.10 and see Nassau Waters, Table I at 6 NYCRR Part 885.6.

Figure 4-2 and Table 4-2, of Volume II Appendix I (I-1 Sediment Transport Study): Many samples in the New York portion of the route fall within the range of 70% to 90% sand and gravel. This material is not as predominantly sandy (greater than 90% sand and gravel) as the sediment found in previous ocean installation studies reviewed by NYSDEC. Due to the concentration of fines, for purposes of compliance with New York State's water quality standards NYSDEC prefers use of a mechanical plow for installation in the New York portion of the route.

Volume II, Appendix I, Addendum (I-2 Sediment Transport Study - Addendum): This describes modelling of supplemental lowering of the Mainline from mp 17.0 to mp 20.1. The FEIS should reflect that two passes of a jet sled will be necessary to achieve the required 7 ft of cover along the portion of the Mainline that will pass through this anchorage area. Jet sled trenching produces increased turbidity over that produced by mechanical plowing. A portion of this route, approximately mp 19.4 through mp 20.1, will be in New York State waters.

Table 2-2, Extent of Suspended Sediment Plumes State Waters: The TSS concentration of 100 ppm is predicted to occur up to a maximum distance of 3,512 feet during the jet sledding of the pipeline with a mean distance of 919 feet. Note that if NYSDEC issues a WQC for activities in New York waters it will likely contain a permit limitation of 100 ppm TSS at 1500 feet (as per NYSDEC Technical and Operation Guidance Series 5.1.9 Chapter V.C), water quality monitoring at 1500 feet, and require that this limit not be exceeded during pipeline installation.

Volume II, Appendix I, I-2 Sediment Transport Study – Addendum: The addendum represents a significant change in installation plans. The FEIS should be updated throughout to include the information in the Addendum, so as to accurately describe the project as currently proposed and inform the decision as to whether the project can comply with State water quality standards.

V. Air Quality, Review of Clean Air Act Title V Application

NYSDEC regulates air quality in New York State under the Clean Air Act (42 U.S.C.A. Section 7401 *et seq.*) pursuant to a delegation of authority from the Environmental Protection Agency; as well as pursuant to the authority provided in ECL Article 19 (Air Pollution Control) and the regulations promulgated at 6 NYCRR Parts 200 - 252 (Prevention and Control of Air Contamination and Air Pollution).

DEIS Section 4.10.3.1: This does not identify how liquid condensate, collected from within the gas transfer equipment, is managed. The FEIS should seek to remedy this and should also indicate if there is a flare associated with the condensate control/removal. See 6 NYCRR Part 201 (Air Contamination Sources) and Part 617 (State Environmental Quality Review Act).



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City of New York

This is a Comment on the **Coast Guard** (USCG) Notice: **Deepwater Port License Applications: Liberty Natural Gas LLC, Port Ambrose Deepwater Port**

Comment Period Closed
Mar 16 2015, at 11:59 PM ET

For related information, [Open Docket Folder](#) 

Comment

Dear Mr. Bachman and Ms. Fields:

Enclosed for filing in Docket USCG-2013-0363 please find the City of New Yorks Comments on the Draft Environmental Impact Statement for the Port Ambrose Project Deepwater Port Application.

Please contact me if you have any questions.

Respectfully submitted,

/s/ S. Jay Goodman, Esq.
Office: (518) 320-3414 

Attachments (1)



City of New York

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March 16, 2015

VIA ELECTRONIC FILING

Mr. Roddy Bachman
U.S. Coast Guard

Ms. Yvette M. Fields
U.S. Maritime Administration

Re: Docket USCG-2013-0363 – Deepwater Port License Application: Liberty Natural
Gas LLC – Port Ambrose Deepwater Port

Dear Mr. Bachman and Ms. Fields:

Enclosed for filing in the above-referenced docket please find the City of New York's
Comments on the Draft Environmental Impact Statement for the Port Ambrose Project Deepwater
Port Application.

Please contact me if you have any questions.

Respectfully submitted,

COUCH WHITE, LLP



Jay Goodman
Counsel to City of New York

SJG/gm
Attachment
S:\DATA\Client11 14501-14800\14740\Corres\USCG 03-16-15.docx

**UNITED STATES COAST GUARD
AND
UNITED STATES DEPARTMENT OF TRANSPORTATION
MARITIME ADMINISTRATION**

**Deepwater Port License Application:
Liberty Natural Gas LLC – Port Ambrose
Deepwater Port**

Docket USCG-2013-0363

**COMMENTS OF THE CITY OF NEW YORK
ON THE
DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR THE
PORT AMBROSE PROJECT DEEPWATER PORT APPLICATION**

Dated: March 16, 2015

**New York City Office of Sustainability
253 Broadway, 10th Floor
New York, New York 10007**

INTRODUCTORY STATEMENT

On December 9, 2014, the United States Coast Guard and United States Department of Transportation Maritime Administration (collectively, the “Agencies”) issued a Draft Environmental Impact Statement (“DEIS”) for the Port Ambrose Deepwater Port proposed by Liberty Natural Gas, LLC (“Project”). The Project involves the construction of a submersible liquefied natural gas (“LNG”) terminal in the New York Bight approximately 16.1 nautical miles off of Jones Beach, New York. The City of New York (“City”) has a significant interest in this matter and offers the following comments on the DEIS.

New York City is a global financial and commercial center with a deep commitment to fostering the development and maintenance of clean, reliable energy sources. Two fundamental aspects of the City’s energy policies are reducing greenhouse gas emissions and expanding the use of renewable resources for electricity generation. To achieve these goals, the City has advocated for, among other things, large-scale offshore wind projects. Indeed, in *PlaNYC*, the City’s comprehensive long-term sustainability program, the City identified offshore wind projects as a potentially transformative opportunity to develop a utility scale renewable energy facility that can flow electricity directly into the City.¹

Extending and expanding upon *PlaNYC*, Mayor Bill de Blasio recently announced the ambitious Green Buildings Plan to institute sweeping changes in energy use and supply.² The Green Buildings Plan formalizes New York City’s commitment to reducing its greenhouse gas emissions by 80 percent by 2050 (“80 x 50”) through a long-term transition away from fossil fuels to renewable sources of energy. As part of this effort, the City has supported a

¹ *PlaNYC* and its updates are available at <http://www.nyc.gov/html/planyc/html/about/about.shtml>.

² *One City, Built to Last: Transforming New York City’s Buildings for A Low-Carbon Future* is available at <http://www.nyc.gov/html/builttolast/pages/home/home.shtml>.

collaborative proposal led by the New York Power Authority (“NYPA”) to develop a 700 megawatt (“MW”) offshore wind farm in the New York Bight.

The DEIS is deficient in that it does not take a hard look at two issues. First, the DEIS does not properly assess the potential for the Project to substantially interfere with the development and operation of the offshore wind farm because of their overlapping footprints and exclusion zones. Further, the DEIS does not properly mitigate against this potential impact, and the City respectfully urges the Agencies to refrain from taking any action on the Project that would inhibit the construction or operation of the wind project. Second, the DEIS fails to properly address the impact of increased sediment disturbance and turbidity, which are anticipated to occur on a chronic basis during Project construction and operation.

COMMENTS

POINT I

THE AGENCIES SHOULD ENSURE THAT THE PROJECT DOES NOT INTERFERE WITH THE DEVELOPMENT AND OPERATION OF OFFSHORE WIND IN THE NEW YORK BIGHT

In September 2011, the Long Island-New York City Offshore Wind Collaborative (“Collaborative”), a public-private partnership that includes NYPA, the Long Island Power Authority, and Consolidated Edison Company of New York, Inc., and which is supported by the City and others, applied to the Bureau of Ocean Energy Management (“BOEM”) for a federal underwater lands lease for an offshore wind project located in a wedge-shaped area in the Atlantic Ocean approximately 13 nautical miles from the Rockaway Peninsula and south of Nassau County, New York. As proposed, the project initially would have a capacity of 350 MW. Later phases would expand the project to a total capacity of about 700 MW.

As shown by Figure 3.7.1 of the DEIS, the area available for wind development in the New York Bight is limited. Three corridors are used for shipping lanes and separation zones; as such, wind turbines could not be placed in those areas. The corridors adjacent to the New Jersey shoreline and to the east of the first shipping corridor are replete with fishing grounds, and their close proximity to land likely would present unacceptable aesthetic impacts from the wind farm. Thus, the Collaborative chose the corridor described above.

As also shown in Figure 3.7.1, the Project would be located in the middle of the proposed area of the wind farm. Thus, the Project, combined with its exclusion zone, could severely limit the ability of the Collaborative to develop the wind farm. While the DEIS identifies this potential conflict, it does not adequately assess the issue, and it does not propose any mitigation of the potential impact on this pre-existing potential use of the same area. Although the City submitted comments on this very issue prior to the development of the DEIS, its concerns do not appear to have been addressed.

The City respectfully submits that a balancing of the merits of the two projects compels a finding that the benefits of the wind farm exceed those of the Project, and that the Project should not be permitted to interfere with the development of the wind farm. Scalable wind power sources, such as the Collaborative's wind farm, are critically needed resources and important elements in the respective efforts of the federal government, State of New York, and City of New York to reduce greenhouse gas emissions and combat climate change.³ Indeed, such projects are essential components of the City's 80 x 50 policy goal.

³ Importantly, wind energy located in a marine environment has a significantly greater capacity factor than that of comparable land-based facilities and, therefore, offers substantial benefits as compared to on-shore wind (and solar photovoltaic) resources.

This particular wind farm could make a substantial contribution to the City's growing energy and capacity requirements, while not producing any greenhouse gas emissions. In contrast, the Project would exacerbate the problems with greenhouse gas emissions in two ways. First, as discussed in Section 4.10.7 of the DEIS, there is a potential for the release of methane during the operations of the facility, and methane has a high global warming potential. Second, the increased availability of natural gas in the New York area made possible by the Project could incentivize the use of fossil-fueled generation over renewable generation, further contributing to greenhouse gas emissions.

The City respectfully submits that further analysis of this issue is required. Although the DEIS acknowledges the potential for the Project to impact the proposed wind farm, it is inconclusive with respect to how increased shipping traffic and the Project exclusion area would affect development, operation, and maintenance of the wind farm. For instance, the DEIS did not consider the potential conflicts between the location of the wind turbines and the location of the Project, including shipping lanes for tankers and other ships needed to support each project, and it did not evaluate the effect of underwater features on the location of the wind turbines compared to the location of Project facilities or shipping lanes.

The DEIS estimates that the Project may consume approximately 4% of the area defined in the proposed BOEM lease for wind development. Although this may not seem like a substantial amount, the location of the Project within the wind farm footprint could inhibit the development of the wind farm. Also, it is not clear whether the DEIS has included all of the areas in which wind turbines could not be constructed. Given the proposed location of the

Project in the center of the wind farm development area, it appears that a substantially larger portion of the BOEM lease area could be adversely affected.⁴

Because the Collaborative commenced its activity related to the wind farm, and submitted a lease application to the BOEM, long before the Project application was submitted to the Coast Guard and Maritime Administration for approval, the wind farm should have been treated as a preexisting use, and the extent to which the Project could interfere with the wind farm should have been evaluated but was not. Accordingly, further analysis should be undertaken that specifically evaluates whether the Project may impede development or operation of the Collaborative's wind farm.

The City takes no position on the merits or economics of the Project except to note two factors that should inform any decision on it. As explained above, the City and State of New York, as well as the federal government, are striving to increase reliance on renewable energy while decreasing reliance on fossil fuels as part of an ambitious plan to slash greenhouse gas emissions. It is imperative that regulatory decisions regarding the use of our natural resources support those goals by facilitating renewable energy development. At a minimum, such decisions should avoid creating barriers that impede or otherwise diminish the development of renewable energy resources.

Also, the continuing boom in domestic shale gas development has provided New York and the Northeast United States with new, substantial supplies of natural gas. Given the projected shale play reserves, it is not apparent that a new LNG import facility is needed. Moreover, inasmuch as the Project would connect into an existing Transco pipeline, the Project is unlikely to alleviate the transmission capacity constraints that now exist in the interstate

⁴ The City understands that the New York Power Authority has estimated that as much as 20% of the area contemplated for the wind farm could be adversely impacted by the Project.

pipeline system in the Northeast and in the New York Facilities serving New York City and Long Island.

In balancing the conflict discussed herein between the wind farm and the Project, the Agencies should consider these two factors. The City respectfully submits that these factors weigh heavily in favor of the need for action, such as the imposition of mitigation, that would avoid or minimize the effect of the Project on the development of the wind farm.

POINT II

FURTHER ANALYSIS OF PROJECT CONSTRUCTION AND OPERATION ON SEDIMENT DISTURBANCE AND TURBIDITY IS NEEDED

The DEIS identifies several water quality impacts that it describes as short-term in nature. Specifically, the DEIS states that construction, riser pipe movement, submerged turret loading (“STL”) buoy anchor chain movement, and accidental chemical releases will cause sediment disturbance and increased turbidity.⁵ Wave, wind, and water currents also will disturb sediment and increase turbidity by moving STL buoy anchor chains and wire ropes.⁶ The DEIS dismisses these impacts as minor and limited in duration.⁷

Although the activities identified as causing sediment disturbance and turbidity may be relatively limited in duration, they arise from events that will recur on a frequent – if not constant – basis. Wave, wind, and water currents are perpetual, and the STL buoys would be raised and lowered from the seafloor during port operation. According to the BOEM, there would be approximately 45 LNG carrier deliveries per year, with each vessel remaining on station for as long as 17 days per delivery. The cumulative effect of these deliveries may be near-constant

⁵ DEIS at ES-15, 4-11.

⁶ *Id.* at 4-11.

⁷ *Id.*

sediment disturbance and increased turbidity. The DEIS does not adequately consider the potential impact of persistent sediment disturbance and increased turbidity over time, or identify mitigation measures that might reduce the chronic effect of increased turbidity.

Accordingly, additional analysis is needed of the potential impacts of persistent sediment disturbance and turbidity on water quality during construction and throughout the 25-year course of Project operations. To the extent the analysis determines that the impacts would be adverse to water quality, identification and evaluation of mitigation options are also needed.

CONCLUSION

The City respectfully urges that the foregoing considerations be accounted for explicitly as the DEIS is converted into a final EIS. In weighing all the relevant environmental concerns and considering proposed uses that may conflict, the Agencies should evaluate the relative merits and utility of the Project and the Collaborative's wind farm. The final EIS should reflect a careful balancing of these interests and avoid any impediment to the maximal development of renewable energy in the same area of the Atlantic Ocean.

Respectfully submitted,

/s/ S. Jay Goodman

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Fax: 518-426-0376
E-mail: jgoodman@couchwhite.com
klang@couchwhite.com

Dated: March 16, 2015
Albany, New York

/s/ Anthony J. Fiore

Anthony J. Fiore
Interim Director, Energy Regulatory Affairs
New York City Office of
Sustainability
253 Broadway, 10th Floor
New York, New York 10007
Tel.: 212-676-0756
E-mail: afiore@dep.nyc.gov

Dated: March 16, 2015
New York, New York



JILL C. ANDERSON
SVP Public Affairs & Business
Development / Chief of Staff

March 16, 2015

Department of Transportation
Docket Management Facility
1200 New Jersey Avenue SE
West Building, Ground Floor, Room W12-140
Washington, DC 20590-0001

**Subject: Deepwater Port License Application:
Liberty Natural Gas LLC, Port Ambrose Deepwater Port**

Docket: USCG-2013-0363-1076

To Whom It May Concern:

Thank you for notifying the New York Power Authority ("NYPA") of the December 9, 2014 publication of the Draft Environmental Impact Statement ("DEIS") for the Port Ambrose Deepwater Port ("Port Ambrose LNG Proposal") and for providing the opportunity for public comment. Based upon review of the DEIS, NYPA believes that the impacts of co-location with the Collaborative's planned offshore wind project have not been adequately addressed.

Background

In September 2011, NYPA, on behalf of the Long Island-New York City Offshore Wind Collaborative¹ ("Collaborative"), filed an unsolicited lease request with the Bureau of Ocean Energy Management ("BOEM") for a location 13 to 17 miles off the coast of Long Island as part of its proposal to develop an offshore wind project of 350 MW to 700 MW at that location. The Collaborative offshore wind lease request can be found on the BOEM website at:

<http://www.boem.gov/Renewable-Energy-Program/State-Activities/New-York.aspx>

The location of the Port Ambrose LNG Proposal overlaps with portions of the Collaborative's site. NYPA believes an offshore wind project is the best use for the site. The attached map shows the Port Ambrose LNG Proposal mooring buoys within the Collaborative's lease site.

¹ The Collaborative is comprised of the three largest electric providers in the Long Island – New York City region: (1) the Long Island Power Authority, (2) Consolidated Edison Company of New York Inc., and (3) NYPA. The Collaborative's goal is to help New York State reach its clean energy goals. The lease application indicated NYPA's interest in acquiring lease rights to the site so that the Collaborative could establish a contractual arrangement with a commercial offshore wind developer on a Power Purchase Agreement and other definitive agreements through the issuance of a subsequent Request for Proposals.

Regulatory Timelines for Offshore Wind vs. Liquefied Natural Gas Import

The BOEM offshore lease process and the Port Ambrose LNG Proposal are proceeding along different regulatory timelines. The BOEM lease process is still on-going, with the BOEM competitive auction not expected to take place until on or about mid to late 2016. The Port Ambrose LNG Proposal licensing process, under the Deepwater Port Act (“DWPA”), is likely to be completed before the BOEM competitive auction process is completed. Based upon these very different regulatory timelines, NYPA, in its August 2013 comments on the Notice of Intent to prepare an Environmental Impact Statement for the Port Ambrose LNG project, explicitly requested consideration of the consequences of a co-located Port Ambrose LNG Proposal, specifically citing the issues of navigational safety, compatibility and potential conflicts of site use.

Deepwater Port Act Siting Criteria

The DWPA regulations specify siting criteria² that must be considered when evaluating proposed and alternative project locations. Specifically, proposed and alternative sites for a deepwater port are evaluated based in part on how well each “[m]inimizes the displacement of existing or potential mining, oil, or gas exploration and production or transportation uses.” BOEM is authorized to issue leases for renewable energy development on the Outer Continental Shelf (“OCS”)³ and the OCS Lands Act (“OCSLA”) renewable energy regulations⁴ provide procedures and requirements for siting a renewable energy facility in federal waters. Based upon this, NYPA considers the Deepwater Port siting criteria in 33 CFR §148.720(l) to be inclusive of all energy uses regulated under the OCSLA (43 U.S.C § 1331 et seq), including the renewable wind energy for which the NYPA lease request area is intended. Therefore, the potential for the Port Ambrose LNG proposal to displace the potential offshore wind project needs to be further analyzed to adequately address this possibility.⁵

Determination of Marine Traffic Buffer Zones

A determination of marine traffic buffer zones is critical to ascertaining the potential impact of co-location, yet the DEIS states that it would be “inappropriate to establish specific setbacks” between the port, vessels, and the wind farm.⁶ Instead, the DEIS defers establishment of such specifics to an as yet-to-be developed United States Coast Guard (“USCG”) Deepwater Port Operations Manual, citing lack of regulatory requirements. Estimates of impact on the proposed NYPA lease area vary greatly. According to the DEIS, “Liberty’s setback recommendation...would take approximately 4 percent of the available wind turbine area.”⁷ This estimate is based upon 500 meter safety zones⁸ and no other vessels besides the LNG regasification vessels transiting through the area. If estimates took

² 33 CFR §148.720, repeated in the DEIS at p.2-36

³ Energy Policy Act of 2005 (P.L. 109-58 § 388(a)) amendments to the Outer Continental Shelf (OCS) Lands Act

⁴ 30 CFR§ Part 585

⁵ 33 CFR §148.720(l); see also 33§ CFR 148.715 and 33§ CFR 148.735(e)

⁶ Draft Environmental Impact Statement, Section 5.4.3, Safety; Deepwater Port Potential Impact, page 5-11

⁷ Draft Environmental Impact Statement, Section 6.1.1.6, Cumulative Impacts, Other Proposed Energy Projects, page 6-7

⁸ Comments submitted to BOEM by Holland and Knight on behalf of Liberty Natural Gas, June 2014

(<http://portambrose.com/wp-content/uploads/2014/06/Liberty-Natural-Gas-Comments-BOEM-2013-0087.pdf>)

into account the USCG recommended one-nautical mile buffer under which NYPA amended its lease in 2012, and the possibility of other vessels transiting through, area lost due to the placement of the LNG submerged turret buoys would be a minimum of 13% and could be as much as 20% of total area available for wind farm development.

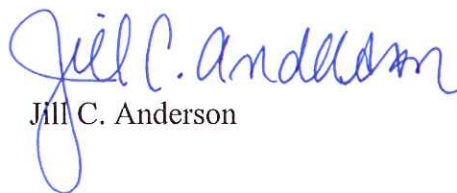
Request to Fully Consider Co-location Impacts

The DEIS has not adequately addressed the impacts of co-location with the Collaborative's planned offshore wind project. In particular, the DEIS should include the required maritime traffic setbacks between the Port Ambrose LNG Proposal facility, vessels trafficking through the area, and an offshore wind farm as proposed by NYPA in its lease application. Without such critical information, it does not seem possible to make appropriate findings about adverse impacts of the Port Ambrose LNG Proposal on offshore wind potential.

NYPA reiterates its request that the EIS fully consider and address the co-location impacts and potential for displacement of renewable wind energy, including specific parameters on navigational safety buffers that will be required and the viability of an offshore wind farm as proposed by NYPA in that location.

Please continue to keep NYPA's Project Manager Robin Shanen (robin.shanen@nypa.gov) apprised of developments in the Port Ambrose LNG Proposal application, including public meetings, comment periods and opportunities, and public findings of your process.

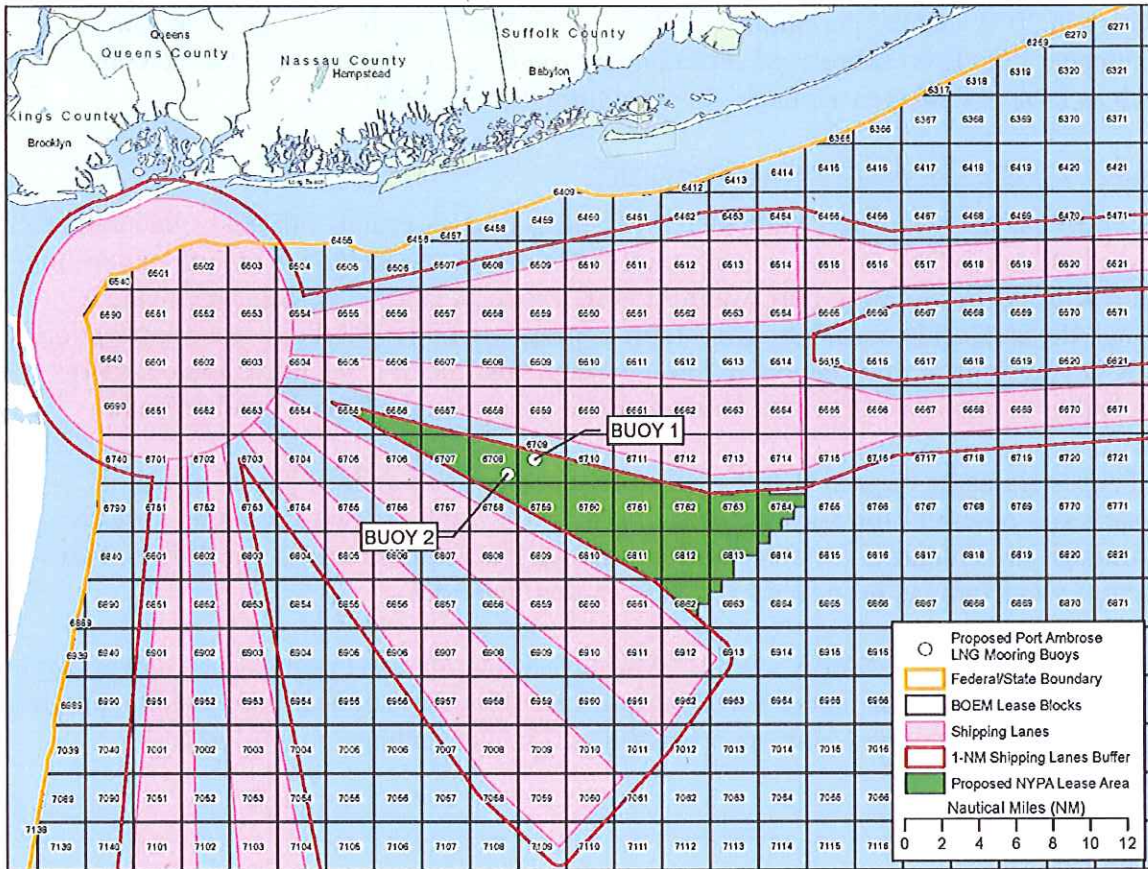
Very truly yours,



Jill C. Anderson

Enclosure

Proposed Outer Continental Shelf Lease Site of Offshore Wind and Port Ambrose LNG Mooring Buoys





State of New Jersey

MAIL CODE 501-04B

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NATURAL & HISTORIC RESOURCES

HISTORIC PRESERVATION OFFICE

P.O. Box 420

Trenton, NJ 08625-0420

TEL. (609) 984-0176 FAX (609) 984-0578

CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

April 8, 2015

Jodi M. McDonald, Chief
Regulatory Branch
Department of the Army
Corps of Engineers, New York District
Jacob K Javits Federal Building
New York, NY 10278-0090

Dear Ms. McDonald:

As Deputy State Historic Preservation Officer for New Jersey, in accordance with 36 CFR 800: Protection of Historic Properties, as published in the Federal Register on December 12, 2000 (65 FR 777698-77739) and as amended on July 6, 2004 (69 FR 40544-40555), I am providing Continuing Consultation Comments for the following proposed project:

**Middlesex County
Port Ambrose Deepwater Port
Liberty Natural Gas
United States Department of the Army, Corps of Engineers**

800.4 Identification of Historic Properties

The consultation comments below are in reply to the following cultural resources reports received at the Historic Preservation Office (HPO) on April 1, 2015:

September 2012 Ryberg, Kathryn, Gregg Brooks, David McCullough, James S. Schmidt, Martha Williams, and Kathryn Dixon. *Archaeological Resource Survey and Cultural Resources Assessment for the Port Ambrose Project, Federal Waters, Offshore New York*. Prepared for Liberty Natural Gas, LLC, New York, NY. Prepared by R. Christopher Goodwin & Associates Inc., Frederick, MD.

And

September 2012 Schmidt, James S., Kathryn Ryberg, Gregg Brooks, David McCullough, Martha Williams, and Kathryn Dixon. *Archaeological Resource Survey and Cultural Resources Assessment for the Port Ambrose Project, New York. State Waters*.

Prepared for Liberty Natural Gas, LLC, New York, NY. Prepared by R.
Christopher Goodwin & Associates Inc., Frederick, MD

The proposed undertaking includes the installation of submerged buoys, a buoy landing pad, and pipeline facilities for liquid natural gas regasification vessels. These facilities will connect to a Transcontinental pipeline for 24 nautical miles for delivery to shore. Based upon the submitted reports, geophysical surveys were completed utilizing remote sensing data, sedimentological data, and geochronological data to determine the potential for Paleo-Indian and submerged historic archaeological sites within the Area of Potential Effects (APE). Geotechnical core samples collected from potential paleo-channels identified preserved natural levee deposits; however, these deposits were not laterally extensive. The reports state that the APE possesses a low potential for prehistoric archaeological sites. *The HPO concurs with this assessment.* Magnetometer and side scan sonar surveys identified seven targets that are potentially significant and required additional research. The reports recommend a finding of **No Historic Properties Affected** provided that these targets are avoided from all project-related activities. *The HPO concurs with this assessment.* Pursuant to 36 CFR § 800.4 (d)(1), no further Section 106 consultation is required unless additional resources are discovered during project implementation, pursuant to 36 CFR § 800.13.

Additional Comments

Thank you again for providing the opportunity to review and comment on the potential for the above-referenced undertaking to affect historic properties. Please reference the HPO project number 13-1842 in any future calls, emails, submission or written correspondence to help expedite your review and response. If you have any questions, please feel free to Jesse West-Rosenthal (609-984-6019) of my staff with questions regarding archaeology.

Sincerely,



Daniel D. Saunders
Deputy State Historic
Preservation Officer

Cc: Ruth Foster, Office of Permit Coordination and Environmental Review
C.E. Borland, USCG
Sydney Marshall, Tetra tech

DDS/JWR/ks

CC List:

Ruth Foster
Permit Coordinator
501-02A P.O. Box 420
Trenton, NJ 08625-0420

C.E. Borland, Acting Chief
Deepwater Ports Standards Division
United States Department of Homeland Security
United States Coast Guard
2703 Martin Luther King Jr. Avenue SE Stop 7509
Washington, D.C. 20593-7509

Sydne Marshall
Cultural Resources Lead
1000 The American Road
Morris Plains, NJ 07950



New York State Office of Parks, Recreation and Historic Preservation

Division for Historic Preservation
P.O. Box 189, Waterford, New York 12188-0189
518-237-8643

Andrew M. Cuomo
Governor

Rose Harvey
Commissioner

December 13, 2013

Sydne Marshall
Tetra Tech
1000 The American Road
Morris Plains, New Jersey 07950

Re: Department of the Interior
*Deepwater Port License Application - Liberty Natural Gas LLC, Port Ambrose
Deepwater Port, Federal Waters off of New York and New Jersey: Request for
Information about Cultural Resources Concerns*
12PR00425

Dear Ms. Marshall:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the submitted information requesting information about cultural resources concerns for the above listed project. We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966, *as amended*, and its implementing regulations 36 CFR Part 800 – Protection of Historic Properties. The purpose of this letter is a follow up to our electronic mail correspondence on November 11, 2013 and subsequently on November 19, 2013.

It is the understanding of our office that an Environmental Impact Statement (EIS) will be prepared for the proposed undertaking. As part of that process, Tetra Tech has requested information from our office about potential effects on historic properties listed, or eligible for listing, on the National Register of Historic Places.

After extensive review of records available in our office, assessment of remote sensing surveys, and consultation with several knowledgeable regional contacts, our office can provide no information regarding any potential significant historic properties within the area of potential effect (APE) that extends into New York State jurisdictional waters. Furthermore, as there will be limited construction within New York State waters, there is limited potential for such resources to occur. However, should project parameters change, please inform us of any modifications by submission of those changes to our office for review and comment.

Ms. Sydne Marshall

December 13, 2013

12PR00425

Page 2

Our office looks forward to further consultation with you on the proposed project. Should you have any questions, please feel free to contact me directly at (518) 237-8643, Extension 3288 or via electronic mail at Brian.Yates@parks.ny.gov. If further correspondence is required regarding this project, please be sure to refer to OPRHP Project Review (PR) number 12PR00425.

Sincerely,

A handwritten signature in blue ink, appearing to read "Wm. B. Yates", is written over the word "Sincerely,".

Wm. Brian Yates

Historic Preservation Specialist



New York State Office of Parks, Recreation and Historic Preservation

Division for Historic Preservation
P.O. Box 189, Waterford, New York 12188-0189
518-237-8643

Andrew M. Cuomo
Governor

Rose Harvey
Commissioner

19 May 2014

Dr. Sydne B. Marshall
Tetra Tech
1000 The American Road
Morris Plains, NJ 07950

Re: USCG
Liberty Natural Gas Port Ambrose Deepwater Port
Federal Waters off of New York and New Jersey
13PR04462

Dear Dr. Marshall:

The State Historic Preservation Office (SHPO) has reviewed the information submitted for this project. Our review has been in accordance with Section 106 of the National Historic Preservation Act and relevant implementing regulations.

Based on the information provided, SHPO recommends that the planned project will have **No Effect** on historic properties listed or eligible for listing on the National Register of Historic Places. This recommendation pertains only to the Area of Potential Effects (APE) described in the submitted materials. Should the project design be changed SHPO recommends further consultation with this office.

If you have any questions please don't hesitate to contact me.

Sincerely,

Philip A. Perazio, Historic Preservation Program Analyst – Archaeology Unit
Phone: 518-237-8643 x3276; FAX: 518-233-9049
Email: Philip.Perazio@parks.ny.gov



State of New Jersey

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DEPARTMENT OF ENVIRONMENTAL PROTECTION

NATURAL & HISTORIC RESOURCES

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CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

September 24, 2013

Sydne B. Marshall
Cultural Resources Lead
Tetra Tech
1000 The American Road
Morris Plains, New Jersey 07950

**RE: Monmouth County
Port Ambrose Deepwater Port
Liberty Natural Gas, LLC
Deepwater Port License Application
United States Coast Guard**

Dear Dr. Marshall:

Thank you for providing the opportunity to review and comment on the potential for the above-referenced project to affect historic properties. The Historic Preservation Office (HPO) reviews projects for their effects on historic properties when federal funding, licensing, or permitting is involved. Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f requires federal agencies to take into account the effects of their undertakings on historic properties. This applies to projects receiving federal funding, permitting, or licensing. The HPO consults with federal agencies in identifying historic properties and avoiding or minimizing any potential adverse effects from federally funded, licensed, or permitted undertakings. Based on the information provided, it appears that it will be necessary for the United States Coast Guard to consult with our office regarding the identification and treatment of historic properties within the project's proposed area of potential effects (APE).

Please note that HPO cultural resource data is available online through GeoWeb:
<http://www.state.nj.us/dep/gis/geoweb splash.htm>. Assessment of project physical and visual effects on historic properties shall be required as part of the above reference undertaking. In addition, please be aware that individuals requiring information about historic and archaeological resources in New Jersey must visit the Historic Preservation Office to access the Office's reference collection. In addition, New Jersey's archaeological site records are maintained by the New Jersey State Museum and can be accessed by contacting Ms. Jessie Cohen, Registrar (609-292-8594).

Historic Architecture

The above referenced undertaking may require an intensive level architectural survey to assess the National Register eligibility of architectural properties over 50 years in age that could be directly or indirectly impacted by the proposed project.

The intensive level architectural survey will necessitate preparation of Intensive Level architectural survey forms and analysis of historic landscapes, viewsheds, and architectural properties older than 50 years both on the subject site and in its vicinity that may be impacted by construction of the project and associated ambient impacts. For properties recommended as National Register eligible, recommendations must be provided for avoidance of impacts. If impacts cannot be avoided alternatives analyses must be provided to explore alternatives to avoid, minimize and/or mitigate impacts together with the associated costs and considerations.

Architectural survey must be in keeping with the Office's 1999 Guidelines for Architectural Survey (<http://www.nj.gov/dep/hpo/1identify/survarcht.htm>). For projects requiring a CAFRA permit issued through the Department's Land Use Regulation program, reporting must conform to the guidelines at N.J.A.C. 7:4-8.6

(http://www.nj.gov/dep/hpo/2protection/register_historic_places09_29_08.pdf). Evaluations to determine the National Register eligibility of historic properties must be in keeping with the National Park Service's National Register Bulletin, How to Apply the National Register Criteria for Evaluation. Recommendations for avoidance of impacts to historic properties must conform to The Secretary of the Interior's Standards for the Treatment of Historic Properties. The individual(s) conducting the work will need to meet the relevant Secretary of the Interior's Professional Qualifications Standards for architectural history.

Please note that the project cultural resources consulting firm must contact local historic preservation commissions, historic societies, and persons knowledgeable about local history and architecture for their views on potential impacts to historic and architectural properties as the result of the project and for information that they may provide. This will necessitate providing these contacts with specific information about the location and nature of the project.

Archaeology

Based upon the documentation provided, the location of the proposed project indicates sensitivity for the presence of possible historic and Native American archaeological resources. If the proposed project includes ground disturbing activities, a Phase IA archaeological survey must be completed for the terrestrial portion of the proposed project to assess the potential for the presence of archaeological resources within the project's Area of Potential Effect (APE). If the project's APE is determined to have a high potential for the presence of significant archaeological resources, a Phase IB archaeological survey may be necessary. For the underwater portion of the project, a Phase IB survey must be completed to assess the extent of archaeological and geomorphological resources within the project's APE.

Terrestrial Survey

For Phase IA archaeological surveys, conclusions should specifically address the potential for cultural resources within the project site which may be eligible for inclusion in the National Register of Historic Places. The conclusions should include recommendations and the rationale for one of the following: 1) no further investigation; 2) subsurface testing to identify the location of buried cultural resources (Phase IB testing); 3) subsurface testing to evaluate the National Register eligibility of archaeological sites in the project area (Phase II testing); or 4) monitoring during construction. If additional archaeological survey is advised, the report should include specific recommendations regarding the nature and focus of those investigations.

All phases of the archaeological survey and reporting will need to be in keeping with the Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation*, and the HPO's *Guidelines for Phase I Archaeological Investigations: Identification of Archaeological Resources* and *Guidelines for Preparing Cultural Resources Management Archaeological Reports Submitted to the Historic Preservation Office*. These guidelines can be obtained through the HPO's web page (<http://www.nj.gov/dep/hpo/identify/survarkeo.htm>). Evaluations to determine the National Register eligibility of archaeological sites must be in keeping with the National Park Service's 2000 National Register Bulletin, *Guidelines for Evaluating and Registering Archeological Properties*. The individual(s) conducting the work will need to meet the Secretary of the Interior's Professional Qualifications Standards for archaeology (48 FR 44738-9).

If potential human burials or human skeletal remains are encountered, all ground disturbing activities in the vicinity shall cease immediately and the Historic Preservation Office should be contacted, as well as any appropriate legal officials. The potential burials shall be left in place unless imminently threatened by human or natural displacement.

Underwater Survey

While the HPO does not presently have underwater archaeological survey guidelines, the HPO recommends using the Phase I archaeological survey guidelines developed by the Bureau of Ocean Energy Management (BOEM). BOEM's archaeological survey guidelines are available at: <http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/GGARCH.aspx>. Please be aware, BOEM (NTL 2008-G20) survey lane spacing requirements for projects within the Atlantic requires 30-meters in water depth less than 200 meters and no greater than 200-meters for deep water: <http://www.gomr.boemre.gov/homepg/regulate/regs/ntls/2008NTLs/08-g20.pdf>. Finally, Phase I archaeological survey within the limits of New Jersey waters requires a line spacing of no greater than 25-meters. The HPO recommends survey beyond the project APE to allow for the avoidance of potential, eligible, and listed historic properties. For projects containing geotechnical borings, a geomorphological survey shall assess the potential for the APE to contain submerged landforms that may contain the presence of past human occupation.

Additional Comments

Thank you for providing the opportunity to review and comment on the potential for the above-referenced project to affect historic properties. The HPO looks forward to further consultation with the United States Coast Guard regarding the potential for this undertaking to affect historic

properties. Please reference the HPO project number 13-1842, in any future calls, emails, or written correspondence to help expedite your review and response. Please do not hesitate to contact Jesse West-Rosenthal (609-984-6019) of my staff with questions regarding archaeology or Michelle Hughes (609-984-6018) questions regarding historic architecture.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Saunders", with a long horizontal flourish extending to the right.

Daniel D. Saunders
Deputy State Historic
Preservation Officer



April 7, 2014

Mr. William Brian Yates
Historic Preservation Specialist
New York Division for Historic Preservation
NYS OPRHP
Peebles Island Resource Center
Delaware Avenue
Cohoes, New York 12047

**Subject: Deepwater Port License Application
Liberty Natural Gas LLC, Port Ambrose Deepwater Port
Federal Waters off of New York and New Jersey
OPRHP PR#: 12PR00425
Project Update**

Dear Mr. Yates:

As Third Party consultant to the U.S. Coast Guard (USCG), which is preparing an environmental impact statement (EIS) in coordination with the Maritime Administration (MARAD) as part of the environmental review of the Port Ambrose Deepwater Port license application, I wanted to inform you of a Project modification. The application describes an offshore natural gas deepwater port facility that would be in the New York Bight. Pursuant to the criteria provided by the Deepwater Port Act of 1974, as amended, (33 U.S.C. §§1501 *et seq.*), both New Jersey and New York are the Adjacent Coastal States for this application.

As I described to you by letter of September 24, 2013, Port Ambrose would consist of two submerged turret loading buoys located in Federal waters approximately 17 nautical miles southeast of Jones Beach, New York, 24 nautical miles east of Long Branch, New Jersey, and about 27 nautical miles from the entrance to New York Harbor in a water depth of approximately 103 feet.

It has been identified that the proposed pipeline would cross an extant non-regulated Anchorage Area for a distance of 3.1 miles (Figure 1) from milepost 17 to milepost 20.1. In order to protect the proposed pipeline in this area, Liberty Natural Gas, LLC (Liberty) proposes to bury the pipeline in the Anchorage Area at a greater depth than originally proposed. The anticipated depth for the top of the pipeline in this area would be 7 feet with the trenching disturbance for pipeline installation limited to 10 feet.

The USCG has received a letter from Liberty's contractor confirming that surveys were performed in accordance with "The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation" (48 FR 44716), the Abandoned Shipwrecks Act of 1987 (43 U.S.C. 2101-2106), and the archeological resources field survey and reporting guidelines established by the Department of the Interior's Bureau of Ocean Energy Management.

Assessments were conducted utilizing remote sensing, sedimentological, and geo-chronological data. The subbottom profiler was generally able to achieve high-resolution sub-surface data collection to depths of 5-20 feet. Core samples were also collected from the upper 10-15 feet of the seabed. Although three paleochannels were identified, Liberty's contractor concluded that there is a low potential for the preservation of intact prehistoric archeological sites in the area due to site destruction processes.

The USCG is requesting confirmation from your office that Liberty's contractor has conducted all necessary survey work in this area and that no further survey work is required. Should you have any questions or concerns about the Project and this modification, you may reach me by telephone at (973) 630-8104, by e-mail at sydne.marshall@tetrattech.com, or by mail at my letterhead address, or Mr. Tim Feehan, Tetra Tech Project Manager, at 617-443-7521 (timothy.feehan@tetrattech.com).

Thank you for your attention.

Sincerely,

A handwritten signature in dark ink, appearing to read "Sydne B. Marshall". The signature is fluid and cursive, with the first name "Sydne" being more prominent.

Sydne B. Marshall, Ph.D., RPA
Cultural Resources Lead

Enclosure: Figure 1

cc: Brian Yates (NYSHPO)
Roddy Bachman (USCG)
Curtis Borland (USCG)
Bradley McKittrick (USCG)
Tracey Ford (MARAD)
Wade Moorefield (MARAD)
Tim Feehan (Tetra Tech)
Sean Sparks (Tetra Tech)

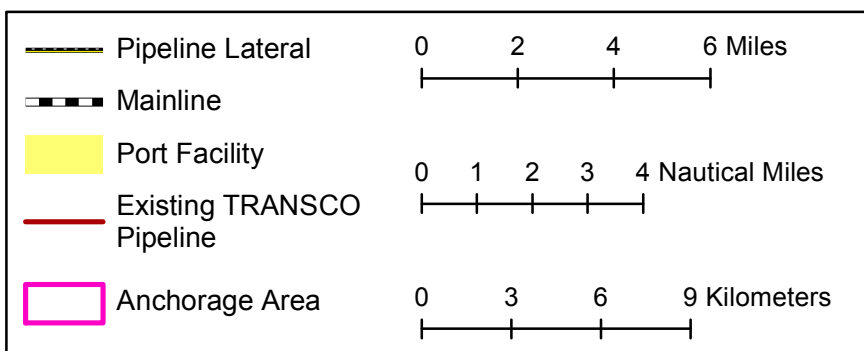
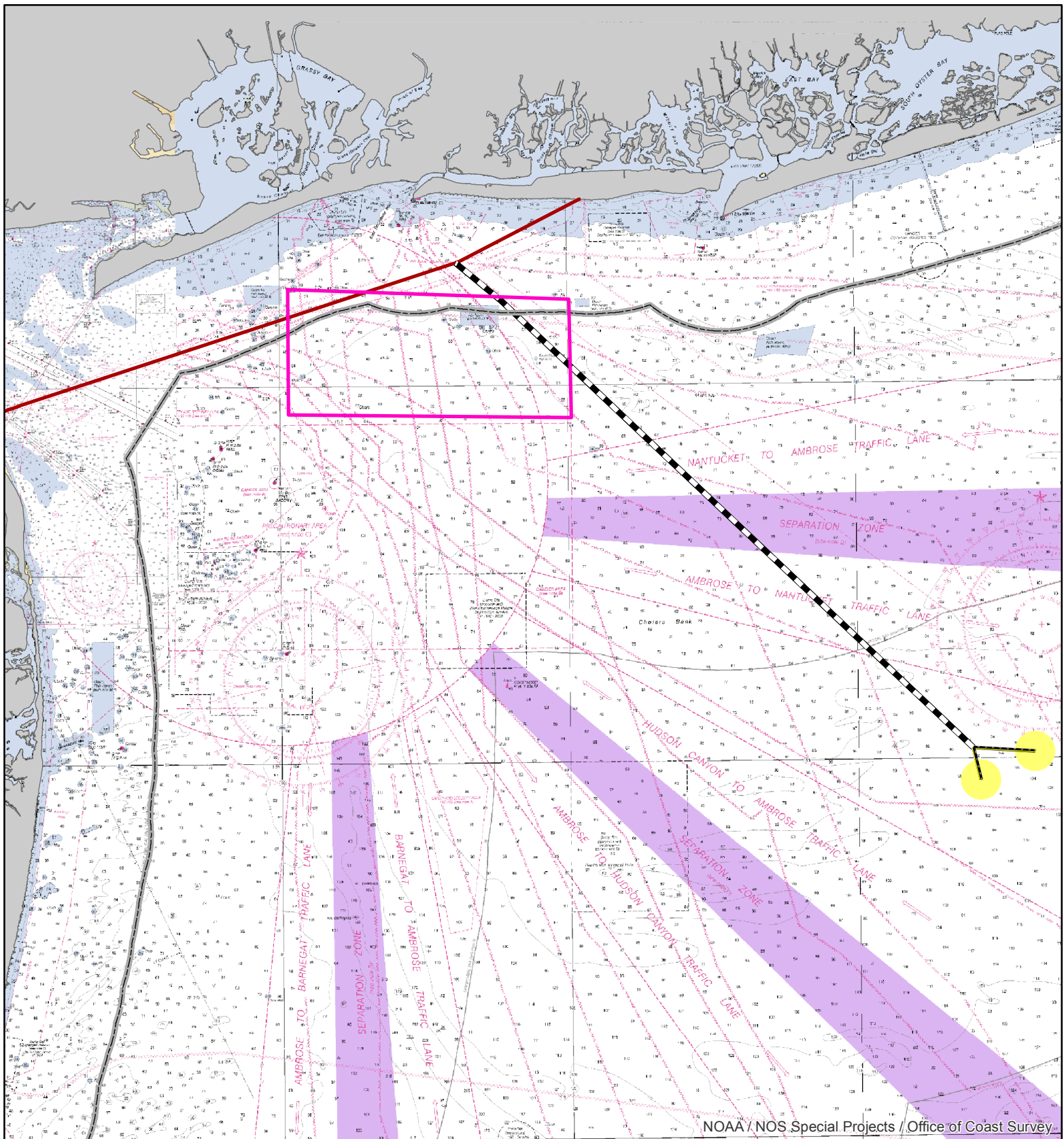
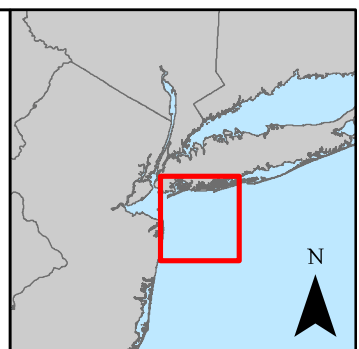


Figure 1:
Anchorage
Area





May 12, 2014

Mr. William Brian Yates
Historic Preservation Specialist
New York Division for Historic Preservation
NYS OPRHP
Peebles Island Resource Center
Delaware Avenue
Cohoes, New York 12047

**Subject: Deepwater Port License Application
Liberty Natural Gas LLC, Port Ambrose Deepwater Port
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Page 2 of 2
Mr. William Brian Yates
May 12, 2014

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The USCG finds that no historic properties would be affected by this undertaking and requests concurrence from your office. Should you have any questions or concerns about the Project and this modification, you may reach me by telephone at (973) 630-8104, by e-mail at sydne.marshall@tetrattech.com, or by mail at my letterhead address, or Mr. Tim Feehan, Tetra Tech Project Manager, at 617-443-7521 (timothy.feehan@tetrattech.com).

Thank you for your attention.

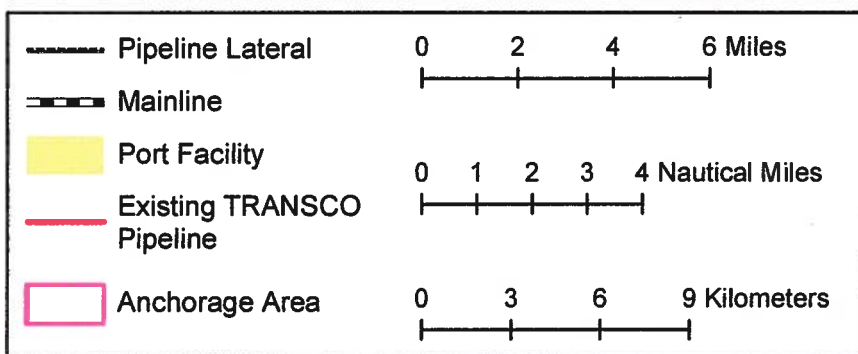
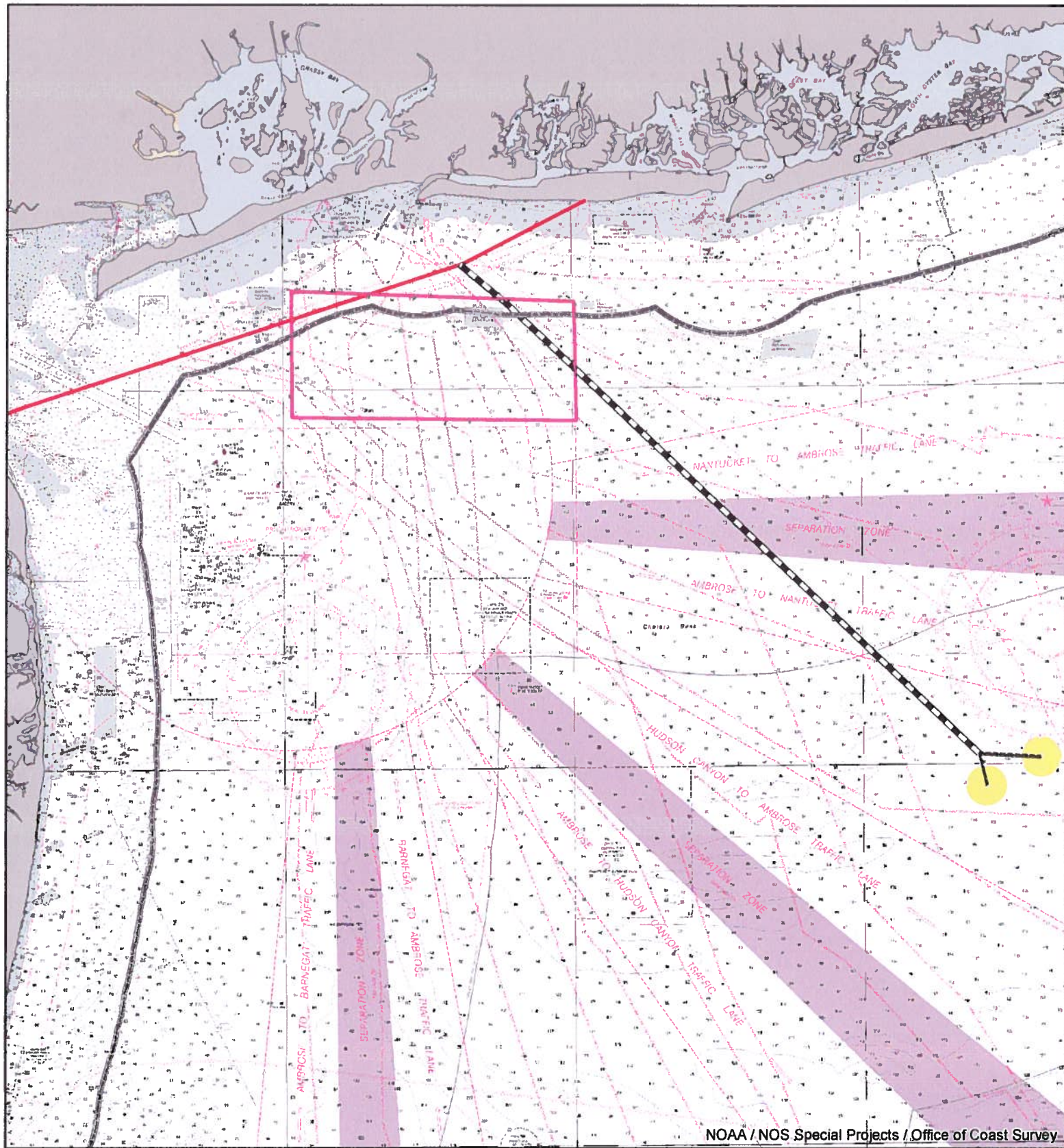
Sincerely,



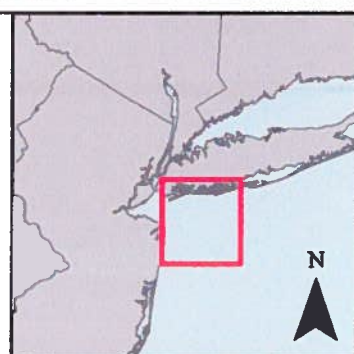
Sydne B. Marshall, Ph.D., RPA
Cultural Resources Lead

Enclosure: Figure 1

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Curtis Borland (USCG)
Bradley McKittrick (USCG)
Tracey Ford (MARAD)
Wade Moorefield (MARAD)
Tim Feehan (Tetra Tech)
Sean Sparks (Tetra Tech)



**Figure 1:
Anchorage
Area**





U.S. Department
of Transportation
**Maritime
Administration**

Administrator

Southeast Federal Center
1200 New Jersey Avenue, SE
Washington, DC 20590

December 9, 2014

The Honorable Andrew M. Cuomo
Governor of New York
Albany, NY 12224

Dear Governor Cuomo:

On June 22, 2013, I notified you that Liberty Natural Gas LLC submitted an application to the U.S. Department of Transportation's Maritime Administration (MARAD) for a license to own, construct, and operate a deepwater port offshore natural gas terminal known as Port Ambrose. In that letter, I also informed you that both New Jersey and New York were designated as adjacent coastal States for the Port Ambrose deepwater port application. The U.S. Coast Guard (USCG) and MARAD have completed work on the Draft Environmental Impact Statement (EIS). A copy is enclosed for information.

The Deepwater Port Act of 1974 (DWPA), as amended, grants the Secretary of Transportation (the Secretary) the authority to issue licenses to own, construct, and operate deepwater ports (DWP). The Secretary subsequently delegated the responsibility for processing DWP applications to MARAD and the USCG. The DWPA requires consultation with adjacent coastal State(s) and other Federal agencies to ensure any license issued is in the national interest.

The deepwater port license application process includes a National Environmental Policy Act of 1969 (NEPA) review and preparation of a Federal EIS, which includes both the port and pipeline components. The initial scoping meetings on the application were conducted on July 9, 2013, in Long Beach, NY and on July 10, 2013 in Edison, NJ. The public was afforded a 60-day public comment period that ended August 22, 2013. Risk Assessment Workshops were held on January 16-17, 2014 and September 4-5, 2014, with participants that included representatives from MARAD, USCG, local law enforcement, emergency response/management, the maritime industry, and other Federal, State and Local agencies.

The enclosed Draft EIS includes responses to public comments received during scoping and a copy of the Phase I Risk Assessment Report. This Draft EIS, the license application, and other associated documents are available for viewing at the Federal Docket Management System website: <http://www.regulations.gov> under docket number USCG-2013-0363. Comments may also be submitted using the docket management system.

Public meetings to receive comments on the Draft EIS will be held on Wednesday, January 7, 2015 in Jamaica, NY at the Hilton New York JFK Airport, and on Thursday, January 8, 2015 in Eatontown, NJ at the Sheraton Eatontown Hotel from 6 to 8 p.m. Both meetings will be preceded by an informational open house from 4:30 to 5:30 p.m. The 60-day comment period for the Draft EIS closes on February 10, 2015. I would encourage you or your designated representative to attend one or both of the public meetings.

For your awareness, at the close of the comment period, the Final EIS will be prepared and final hearings will be held in New York and New Jersey. After the public hearings are complete, there will be a 45-day Governor comment period during which you may exercise your authority under the DWPA to approve, disapprove or approve with conditions this proposal. Following the Governor comment period, I have 45 days to prepare my official Record of Decision.

A similar letter has been sent to Governor Christopher Christie of New Jersey. Should you or your staff have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, reading "Paul N. Jaenichen". The signature is fluid and cursive, with the first name "Paul" being the most prominent.

Paul N. Jaenichen
Maritime Administrator

Enclosure: Port Ambrose Draft EIS



U.S. Department
of Transportation
**Maritime
Administration**

Administrator

Southeast Federal Center
1200 New Jersey Avenue, SE
Washington, DC 20590

December 9, 2014

The Honorable Christopher J. Christie
Governor of New Jersey
Trenton, NJ 08625

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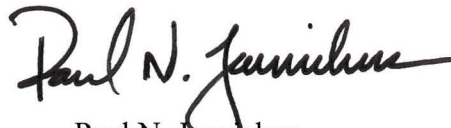
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Sincerely,

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Paul N. Jaenichen
Maritime Administrator

Enclosure: Port Ambrose Draft EIS

NEW YORK
STATE SENATE



NEW YORK
STATE ASSEMBLY

STATE OF NEW YORK
ALBANY

**TESTIMONY OF STATE SENATOR BRAD HOYLMAN AND ASSEMBLYMEMBER LINDA B.
ROSENTHAL TO THE MARITIME ADMINISTRATION AND U.S. COAST GUARD REGARDING
THE PROPOSED PORT AMBROSE LIQUEFIED NATURAL GAS PROJECT**

JANUARY 7, 2014

Thank you for the opportunity to submit testimony to the Maritime Administration and U.S. Coast Guard regarding the application by Liberty Natural Gas, LLC (Liberty) to build a liquefied natural gas (LNG) deepwater port facility called Port Ambrose, roughly 19 miles from the New York shore. We oppose this unnecessary and environmentally irresponsible project and have serious concerns about the timeline and the public process.

The construction and operation of Port Ambrose would have a negative ecological impact on its surroundings, discharge millions of gallons of chemically treated seawater and require the dredging of miles of sea floor. Port Ambrose would contribute to environmental degradation by increasing New York's reliance on natural gas, a methane emitting fuel, at a time when we instead should be focusing on the development and deployment of clean, safe and renewable energy sources. According to the Intergovernmental Panel on Climate Change, the leading international body for the assessment of climate change, methane is a potent greenhouse gas that is 34 times more effective at trapping heat in our atmosphere over a 100-year period than carbon dioxide. This is, of course, in addition to the potential damage to New York's coastline if an extreme weather event, such as another Hurricane Sandy, were to damage a vulnerable offshore facility of this type.

Port Ambrose is an unnecessary project. According to the 2014 Draft New York State Energy Plan, domestic production of natural gas is at its highest level in four decades and the "need for substantial increased volumes of imported LNG has diminished for the near term." The Draft Energy Plan further states that this saturation of supply in natural gas has caused imports to decline every year from 2007 through 2012, a year in which just two of the twelve active LNG import terminals in the country received regular shipments. Adding another unused port to that tally, particularly in light of the myriad potential detrimental environmental impacts, would be both imprudent and wasteful.

Furthermore, the process to consider this project requires more transparency and opportunities for public input. LNG is a major proposal that will affect large numbers of people and municipalities. We appreciate the Maritime Administration's willingness to extend the public comment period from 60 to 90 days, which will allow stakeholders additional time to fully consider the complex and voluminous plans that are laid out in the Draft Environmental Impact Statement. However, we also urge you to schedule an additional public hearing in Manhattan that is accessible for our constituents and others in the region. Today's public hearing at the Hilton JFK Airport is currently the only hearing scheduled in New York and is geographically inconvenient. As a result, it is inadequate for robust public engagement. The location is inaccessible to those who rely on public transportation, and requires anyone traveling from Manhattan or any of the other boroughs outside of Queens to take at least one subway, one bus and a shuttle. The ride from the west side of Manhattan, an area we represent, takes nearly one and a half hours. Given the availability of convenient venues in Manhattan, one would not be hard-pressed to identify another, more accessible location.

In 2011 New Jersey Governor Chris Christie vetoed an application for an LNG port by Liberty off the coast of New Jersey, stating that "offshore LNG poses unacceptable risks to the state's residents, natural resources, economy and security." We urge you to oppose this project as a means of defending New York State's precious environmental assets, and also to ensure that the public is fully engaged in the process.

Thank you for your consideration of our comments.



New Jersey State Chamber of Commerce

This is a Comment on the **Coast Guard** (USCG) Notice:
[Environmental Impact Statements: Availability, etc.:
Liberty Natural Gas LLC, Port Ambrose Deepwater Port](#)

For related information, [Open Docket Folder](#) 

[Comment Now!](#)

Due Feb 10 2015, at 11:59 PM ET

Comment

January 6, 2015

Commandant (CG-OES-4)
Deepwater Ports Standards Division
U.S. Coast Guard Stop 7509
2703 Martin Luther King Jr. Ave SE
Washington, DC 20593-7509

RE: Liberty Natural Gas, LLC, Port Ambrose Project, Docket:
USCG-2013-0363

Attn: US Coast Guard

By way of background, the New Jersey State Chamber of Commerce (State Chamber) is recognized as the independent voice of business in New Jersey. With a broad-based membership ranging from Fortune 500 companies to small proprietorships, representing every corner of the state and every industry, our members provide jobs for over a million people in New Jersey. We continue to work towards promoting a vibrant business environment and economic prosperity through vision, expertise and innovation.

I am writing on behalf of the State Chamber to express our support and respectfully encourage you to approve the Liberty Natural Gas (Liberty) Port Ambrose Project. This project will soon come to a decision that will greatly impact our state. For the past few months, the State Chamber has followed the developments of this project through the USCG Deepwater Port Act licensing process.

The State Chamber supports this project after careful consideration because of the economic benefits it will have in the region including, but certainly not limited to, the bringing of over 800 construction related jobs, the spending of over \$90 million dollars of goods and services in our local economy and an annual operating budget of \$20 million on permanent and contract

ID: USCG-2013-0363-1156

Tracking Number: 1jz-8gh5-5kvr

Document Information

Date Posted:

Jan 7, 2015

RIN:

Not Assigned

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Submitter Information

Submitter Name:

Michael Egenton

Mailing Address:

216 West State Street

City:

Trenton

Country:

United States

State or Province:

NJ

ZIP/Postal Code:

08608

Fax Number:

609-989-9696

service jobs as well as revenues generated by taxes.

Most importantly is the projects ability to introduce competitively priced natural gas into the system at periods of peak demand, which drives down and stabilizes costs which directly affects consumers (residents and businesses) both in the lowering their costs for natural gas and electricity.

As a long-serving member of the NJ Clean Air Council, we have collectively worked on recommendations to reduce air emissions here in our state. We are constantly seeking ways to supply the needed energy to our state in a manner that will both meet our energy goals and benefit the overall air quality. Natural gas is a clean burning and predictable fuel source. The State Chamber believes that the Port Ambrose is a safe and environmentally friendly infrastructure project that has very low environmental impact and void of public hazards due to its location several miles offshore.

We urge you to move forward and take into consideration the economic and environmental benefits of the Port Ambrose project. Thank you for taking our views into consideration.

Sincerely,

Michael A. Egerton
Senior Vice President, Government Relations

Attachments (1)

New Jersey State Chamber of Commerce

View Attachment:





January 6, 2015

Commandant (CG-OES-4)
Deepwater Ports Standards Division
U.S. Coast Guard Stop 7509
2703 Martin Luther King Jr. Ave SE
Washington, DC 20593-7509

RE: Liberty Natural Gas, LLC, Port Ambrose Project, Docket: USCG-2013-0363

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The State Chamber supports this project after careful consideration because of the economic benefits it will have in the region including, but certainly not limited to, the bringing of over 800 construction related jobs, the spending of over \$90 million dollars of goods and services in our local economy and an annual operating budget of \$20 million on permanent and contract service jobs as well as revenues generated by taxes.

Most importantly is the project's ability to introduce competitively priced natural gas into the system at periods of peak demand, which drives down and stabilizes costs which directly affects consumers (residents and businesses) both in the lowering their costs for natural gas and electricity.

As a long-serving member of the NJ Clean Air Council, we have collectively worked on recommendations to reduce air emissions here in our state. We are constantly seeking ways to supply the needed energy to our state in a manner that will both meet our energy goals and benefit the overall air quality. Natural gas is a clean burning and predictable fuel source. The State Chamber believes that the Port Ambrose is a safe and environmentally friendly infrastructure project that has very low environmental impact and void of public hazards due to its location several miles offshore.

We urge you to move forward and take into consideration the economic and environmental benefits of the Port Ambrose project. Thank you for taking our views into consideration.

Sincerely,

Michael A. Egenton - Senior Vice President, Government Relations

NJ Chamber of Commerce, 216 West State Street, Trenton, NJ 08608
(609) 989-7888 Fax: (609) 989-9696 www.njchamber.com



CITY OF LONG BEACH

1 WEST CHESTER STREET
LONG BEACH, NEW YORK 11561
(516) 431-1001
FAX: (516) 431-1389

DEPARTMENT OF
TRANSPORTATION
CRUISE OPERATIONS

2014 DEC 18 A 10:47

December 12, 2014

Ms. Yvette Fields, Director
Office of Deepwater Ports and Offshore Activities
Maritime Administration
1200 New Jersey Avenue SE, W21-309 (MAR-530) Washington, DC 20590

Mr. Mark Prescott, Chief
Deepwater Ports Standards Division
U.S. Coast Guard
2703 Martin Luther King Jr. Avenue SE Washington, DC 20593

Re: Docket Number USCG-2013-0363; Public Hearing

Dear Ms. Fields and Mr. Prescott:

As you know the Draft Environmental Impact Statement (EIS) for the Port Ambrose liquefied natural gas (LNG) deep water port has been published this month. The City of Long Beach requests that MARAD and USCG permit an extension to 90 days for public comment on the proposed Port Ambrose offshore LNG facility, pursuant to federal regulations interpreting the National Environmental Policy Act, including 40 CFR 1506.6(a) and 40 CFR 1506.6(c)(1).

The residents of Long Beach and the greater New York area have the right to fully consider the impacts of an LNG port and to publicly voice their concerns. The proposed site poses a serious threat to security and public health, as it is located just miles from our densely populated city, not to mention the stress it will put on the surrounding ecosystems, including our beautiful beachfront. The seriousness of the proposed site, in accordance with 40 CFR 1506.6(c)(1), warrants an extension for public comment as well as an additional meeting closer to the proposed siting.

As such, the Long Beach City Council thinks it is vital that, in the interest of transparency and full public participation, a third meeting be held in the City of Long Beach due to its proximity to the proposed site and its convenience as a meeting location. Furthermore, because the City was designated as a Public Scoping Hearing location on July 9, 2013 at the Allegria Hotel, we believe it is logical to maintain consistency, as many statewide groups and residents from Long Beach and the surrounding communities attended the standing room only meeting.

The proposed location and time for the New York public hearing at the Hilton New York JFK Airport, in reference to 40 CFR 1506.6(a), lacks the convenience necessary to properly engage the public. Meeting at a location that is notorious for gridlock traffic, during peak rush hour, will not afford the time a South Shore resident needs to make it from their home or workplace. Furthermore, the location does not offer

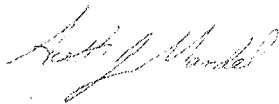
convenient public transportation, as residents, from both New York City and the South Shore, will have to make multiple transfers to get to JFK Airport. Long Beach offers a much more convenient location, as it is equipped with a LIRR Train Station approximately 50 minutes from the heart of Manhattan and Brooklyn, and for drivers, the Atlantic Beach Bridge from Queens and the Meadowbrook Parkway from Long Island.

Though we recognize and appreciate the extension of public comment from 45 to 60 days, we still believe it is unreasonable to expect residents to attend meetings that are severely restricted by both time and location, especially during the winter season, when families are more distracted by the holidays and driving can be more difficult due to snow and ice.

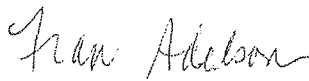
Therefore, we respectfully, yet emphatically, request an extension of time to 90 days and an additional meeting for public comment to be held in Long Beach.

Sincerely,

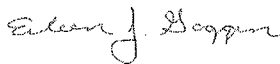
Long Beach City Council



Scott Mandel
President



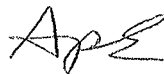
Fran Adelson
Vice President



Eileen Goggin
Council Member



Len Torres
Council Member



Anthony Eramo
Council Member

From: rosentl@assembly.state.ny.us on behalf of [Linda Rosenthal](#)
To: [Bachman, Roddy C CIV](#); Yvette.Fields@dot.gov
Cc: hoylman@nysenate.gov; jerrold.nadler@mail.house.gov
Subject: Letter State Senator Hoylman & Assemblymember Rosenthal re: Port Ambrose LNG Facility
Date: Tuesday, December 23, 2014 6:46:52 PM
Attachments: [2014-12-23 Port Ambrose Deadline Extension Rosenthal-Hoylman.pdf](#)

Senator Brad Hoylman and I have drafted a letter (attached here) requesting an extension of the public comment period on the application of Liberty Natural Gas, LLC to build a liquefied natural gas deepwater port facility off the coast of Long Island, NY. In addition, we have also requested an additional public hearing to be held in Manhattan. Should you have any questions, please do not hesitate to contact either one of us. Thank you.

Linda B. Rosenthal

Member of Assembly – 67 AD

230 West 72nd Street, Suite 2F

New York, NY 10023

p. 212.873.6368

f. 212.873.6520

Follow Linda on Twitter! <<https://twitter.com/LindaBRosenthal>>

Keep up with Linda Rosenthal on Facebook! <<http://www.facebook.com/LindaBRosenthal.UWS>>



December __, 2014

Ms. Yvette Fields
Director, Office of Deepwater Ports and Offshore Activities
Maritime Administration
1200 New Jersey Avenue SE, W21-309 (MAR-530)
Washington, DC 20590

Mr. Roddy Bachman
Commandant CG-OES-4
U.S. Coast Guard Stop 7509
2703 Martin Luther King Jr. Avenue SE
Washington DC 20593-7509

Re: Docket Number USCG-2013-0363

Dear Ms. Fields and Mr. Bachman:

We are writing to you regarding the application by Liberty Natural Gas, LLC ("Liberty") to build a liquefied natural gas ("LNG") deepwater port facility, called Port Ambrose, roughly 19 miles from the New York shore. As representatives of the State of New York, we request that you extend the public comment to 90 days and schedule an additional public hearing in Manhattan that is more accessible for our constituents and any other interested parties who would like to attend and give public comment.

As you know, LNG is a major proposal that affects a large number of people and municipalities. The 60-day public comment period, which stretches through the holiday season, is too short a window for the public to fully consider the complex and voluminous plans that are laid out in the Draft Environmental Impact Statement (DEIS). An extension to 90 days is a reasonable time period allowing people ample time to fully digest the DEIS and prepare comments.

In addition, we urge you to schedule an additional public hearing in Manhattan that is accessible for our constituents and others in the region. The current planned location in New York, the Hilton New York JFK Airport in Queens, lacks the convenience to fully engage the public. The planned location is inaccessible to those who rely on public transportation, and would require an individual traveling from Manhattan or any of the other boroughs outside of Queens to take at least one subway, one bus and a shuttle. The ride from the west side of Manhattan would take nearly one and a half hours. Given the availability of convenient venues in Manhattan, it should not prove difficult to accommodate this request.

We urge you to extend the public comment period to 90 days and schedule a public hearing in Manhattan. Thank you for your consideration of these requests.

Sincerely,

A handwritten signature in black ink that reads "Brad Hoylman". The signature is written in a cursive, slightly slanted style.

Brad Hoylman
State Senator
322 8th Avenue, Suite 1700
New York, NY 10001

A handwritten signature in black ink that reads "Linda Rosenthal". The signature is written in a cursive, slightly slanted style.

Linda B. Rosenthal
Member of Assembly
230 West 72nd Street, Suite 2F
New York, NY 10023



STATE OF NEW JERSEY

CHRISTOPHER J. CONNORS
SENATOR – 9TH DISTRICT
SenConnors@njleg.org

9TH DISTRICT LEGISLATIVE OFFICES
620 WEST LACEY ROAD
FORKED RIVER, NJ 08731

OCEAN & BURLINGTON COUNTY:
(609) 693-6700 OR (732) 240-0266

ATLANTIC COUNTY:
(609) 407-4099

BRIAN E. RUMPF
ASSEMBLYMAN – 9TH DISTRICT
ASMRUMPF@NJLEG.ORG

DIANNE C. GOVE
ASSEMBLYWOMAN – 9TH DISTRICT
AswGove@njleg.org

WEBSITE: [HTTP://DISTRICT9.SENATENJ.COM](http://DISTRICT9.SENATENJ.COM)

December 23, 2014

Mr. Paul N. Jaenichen, Sr.
Maritime Administrator
US Department of Transportation
West Building
Southeast Federal Center
1200 New Jersey Avenue, SE
Washington, DC 20590

Admiral Paul F. Zukunft
Commandant of the US Coast Guard
US COAST GUARD
2703 Martin Luther King J. Ave SE
Washington, DC 20593

Ms. Cheryl A. LaFleur, Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

RE: *Opposition To Proposed Port Ambrose LNG Terminal*

Dear Administrator Jaenichen, Admiral Zukunft and Chairman LaFleur:

For entry into the official public record, our Delegation is formally conveying its opposition to the construction of the proposed Port Ambrose deepwater liquefied natural gas (LNG) terminal.

This principled position is consistent with our outreach to your respective organizations in May of 2008, at which time we called on the federal government to block a proposal by the Atlantic Sea Island Group to build a 63-acre artificial island only 19 miles off of Sea Bright and Exxon-Mobile Corp.'s plans to construct a floating terminal 20 miles off of Manasquan. Once again, we request that full consideration be given to the potential danger to the public in the event of an accident that likely could have serious environmental consequences whereby the ocean floor could be exposed to toxins, threatening marine wildlife, natural habitats and ecosystems. Equally concerning are the potential hazards for New Jersey's fishing and shipping industries when considering that the terminal would be located near high-traffic shipping lanes, as well as near fishing grounds.

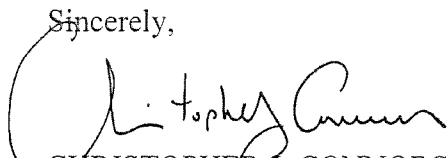
Just as in 2008, we are representing the interests of a large segment of our constituency that is highly protective of New Jersey's environmentally sensitive coastal waters and the animal habitats that could be threatened by large scale operations such as an LNG terminal. Previous attempts to build LNG terminals off the state's coast have allowed many of our constituents to become considerably informed on the issue and, accordingly, these individuals have expressed their deeply held concerns with the expectation that their interests will be considered before any final decision is reached. Clean Ocean Action and other watchdog organizations in the state have been proactive in raising public awareness as to the issues associated with LNG terminals.


Mr. Paul N. Jaenichen, Sr., Admiral Paul F. Zukunft and Ms. Cheryl A. LaFleur,
December 23, 2014
Page 2

When weighing the environmental and safety considerations against any potential economic benefit, we collectively believe the proposal to build a LNG terminal in close proximity to an environmentally sensitive coastline and high traffic shipping area poses too many risks and, in the end, does not serve interests of New Jersey residents. Accordingly, we must strongly urge that the application for the Port Ambrose deepwater liquefied natural gas (LNG) terminal be denied.

Thank you, in advance, for your immediate attention to this communication that we, again, respectfully request be entered into the official public record.

Sincerely,


CHRISTOPHER J. CONNORS
Senator – 9th District


BRIAN E. RUMPF
Assemblyman – 9th District


DIANNE C. GOVE
Assemblywoman – 9th District

Cc: Honorable Chris Christie, Governor, State of New Jersey
Ms. Yvette Fields, Director of Deepwater Ports and Offshore Activities, Maritime Administration
Mr. Curtis Borland, Acting Chief, Deepwater Ports of Standards Division, U.S. Coast Guard
Ms. Cindy Zipf, Executive Director, Clean Ocean Action



EDWARD P. RA
Assemblyman 19th District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

Vice-Chair, Minority Steering Committee
RANKING MINORITY MEMBER
Education Committee

COMMITTEES
Codes
Health
Higher Education
Transportation

April 20, 2015

Commandant (CG-OES-4)
Deepwater Ports Standards Division
U.S. Coast Guard Stop 7509
2703 Martin Luther King Jr. Avenue SE
Washington, DC 20593-7509

Re: Liberty Natural Gas, LLC, Port Ambrose Project, Docket: USCG-201-0363

Attn: US Coast Guard

I am writing regarding the proposed Port Ambrose Natural Gas Project which would utilize an existing pipeline off the South Shore of Long Island to provide a supply of natural gas to our region.

With energy costs being a great contributor to the high cost of living on Long Island a supply of natural gas that could be relied on in the cold winter months as well as in other times of great need would help stabilize our energy costs on Long Island. It would further ensure the availability of natural gas in the event of severe weather events like Superstorm Sandy after which Long Island's supply of energy was cut off.

Bringing lower cost heating and energy is vital to the economic future of Long Island and a proposal such as this would help bring in lower cost natural gas for heating and other uses to Long Island families.

Sincerely,

A handwritten signature in black ink that reads "Edward P. Ra".

Edward P. Ra
19th Assembly District

[Faint, illegible text, likely a carbon copy or bleed-through from the reverse side of the page.]

DONOVAN RICHARDS
COUNCIL MEMBER
31ST DISTRICT, QUEENS

COMMITTEES
COMMUNITY DEVELOPMENT
ECONOMIC DEVELOPMENT
ENVIRONMENTAL PROTECTION
JUVENILE JUSTICE
VETERANS
WATERFRONTS
YOUTH SERVICES



**THE COUNCIL
OF
THE CITY OF NEW YORK**

December 23, 2014

LAURELTON OFFICE
234-26 MERRICK BLVD.
LAURELTON, NY 11422
TEL: (718) 527-4356
FAX: (718) 527-4402

ROCKAWAY OFFICE
1526 CENTRAL AVENUE
FAR ROCKAWAY, NY 11691
TEL: (718) 471-7014
FAX: (718) 471-7391

CITY HALL OFFICE:
250 BROADWAY
NEW YORK, NY 10007
TEL: (212) 788-7216
FAX: (212) 227-1210

drichards@council.nyc.gov

Curtis Borland
Acting Chief
Deep-water Ports Standards Division
United States Coastal Guard
2703 Martin Luther King Jr Ave, SE
Washington, DC 20593

Yvette Fields
Director
Office of Deepwater Ports and Offshore Activities
United States Maritime Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

**RE: Request for Extension of Public Hearing on Environmental Impact Statement
of Port Ambrose Docket Number USCG-2013-0363**

Dear Chief Borland and Director Fields:

As the United States Coast Guard (USCG) considers the results of the Environmental Impact Statement (EIS) of the Port Ambrose Deep Water Port, I ask that you extend the date for public comment for another 90 days in addition to hosting another public hearing within the Rockaway peninsula to accommodate those who live and work closest to the proposed facility.

Last week, the EIS for the Project Ambrose project was issued. As per usual, the general public would be invited to contribute and share and discuss the findings. For those residing in New York State, the only scheduled date for a public hearing is scheduled for January 7th, 2015 with a comment period extending to February 10th, 2015. In addition having a public commentary period scheduled immediately after the holiday period, the public hearing is set to occur outside of the community that will be most directly impacted by the opening of this facility. The Rockaway peninsula is located less than 25 miles from the proposed liquefied natural gas station.

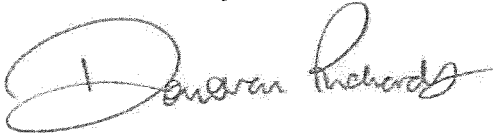
After the massive damage inflicted upon the shore during and after Super Storm Sandy, the coastal community has a vested interest in learning of the risks associated with this type of offshore activity.

As New York City contends with increasingly inclement weather as a result of climate change, my role as a local legislator and Chair of the Committee on Environmental Protection requires that I evaluate ways for New York to decrease its reliance on fossil fuels and inefficient consumption of energy. Reversing the damage of climate change requires reevaluating not only the exploitation of natural resources but also the exploitation of human resources as well. Considering the negligible amount of financial gains to be achieved from the port, risking the lives of those living near the coast and beyond would seem short sighted and foolish.

I implore your agency to reconsider the time allotted to the current public testimony period and grant a 90 day extension. I would also encourage you to please host an additional hearing on the Rockaway peninsula for residents that will be most immediately impacted by the new facility.

Thank you for your time. I look forward to hearing from your office soon in regards to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Donovan Richards". The signature is fluid and cursive, with a large loop at the beginning.

Donovan Richards
Chair, Committee on Environmental Protection
31st Council District, Queens



COUNCILWOMAN DOROTHY L. GOOSBY

ONE WASHINGTON STREET
HEMPSTEAD, N.Y. 11550-4928
(516) 489-8000 EXT. 4804
FAX (516) 489-8814
DGOOSBY@TOWNMAIL.ORG

February 2, 2015

Mr. Arthur Jerry Kremer, President
NY Area Affordable Reliable Electricity Alliance
535 Fifth Avenue, 16th Floor
New York, New York 10017

Re: Port Ambrose Natural Gas Project

Dear Mr. Kremer:

Thank you for your January 15, 2015 letter concerning the above project. I have reviewed the materials you enclosed.

I would be pleased to lend my support for this project. As you know, I represent many low-income communities in the Town of Hempstead. Each and every winter many of my constituents struggle to heat their homes. The Port Ambrose Natural Gas Project would help reduce natural gas heating costs for my constituents, while at the same time, have a minimal environmental impact. Also, lower natural gas costs would encourage more homeowners to convert their heating systems from oil to gas.

Again, thank you for providing me with this information.

Very Truly Yours,

Dorothy L. Goosby
Councilwoman

COUNCILMANIC DISTRICT ONE
HEMPSTEAD, LAKEVIEW, ROOSEVELT, UNIONDALE
PORTIONS OF
NORTH BALDWIN, FREEPORT, GARDEN CITY, LYNBROOK, WESTBURY AND WEST HEMPSTEAD



Councilman Edward A. Ambrosino

ONE WASHINGTON STREET
HEMPSTEAD, N.Y. 11550-4923
(516) 812-3179

March 5, 2015

Hon. Andrew M. Cuomo
Governor of New York State
Executive Chamber
State Capitol, 2nd Floor
Albany, NY 12224

Re: Support for the Port Ambrose Project

Dear Governor Cuomo,

The cost of living on Long Island is among the highest in the country. The time is now to help as much as we can.

I urge support of Port Ambrose, a proposed deep water port 18 miles off the coast of Long Island that would use existing pipelines to bring more natural gas to the region.

This project will help lower utility bills, preserve and create jobs and stabilize our energy infrastructure.

The Liberty Port Ambrose project deserves our collective support.

Very truly yours,

Edward A. Ambrosino
Councilman 2nd District



Your Voice in Federal Decision-Making

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C

Monmouth County Board of Chosen Freeholders

This is a Comment on the **Coast Guard** (USCG) Notice: **Deepwater Port License Applications: Liberty Natural Gas LLC, Port Ambrose Deepwater Port**

For related information, [Open Docket Folder](#) 

Comment

See attached file(s)

Attachments (1)



Monmouth County Board of Chosen Freeholders

View Attachment: 

ID: USCG-2013-0363-2087

Tracking Number: 1jz-8hr7-yxzt

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Date Posted:

Mar 18, 2015

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Submitter Information

Submitter Name:

Gary Rich

Organization Name:

Monmouth County Board of Chosen Freeholders

Submitter's Representative:

Gary J. Rich, Freeholder Director

Government Agency Type:

Local

Government Agency:

Monmouth County, NJ

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COUNTY OF MONMOUTH**

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LILLIAN G. BURRY
JOHN P. CURLEY
THOMAS A. ARNONE



HALL OF RECORDS
1 EAST MAIN STREET
FREEHOLD, NEW JERSEY 07728
TELEPHONE 732-431-7000

March 13, 2015

Department of Transportation
Docket Management Facility, West Building
Ground Floor Room W12-140
1200 New Jersey Avenue SE
Washington, DC 20590-0001

Mr. Roddy Bachman
Deepwater Ports Standards Division (CG-OES-4)
U.S. Coast Guard Headquarters (Room 1210)
2100 Second Street,
SW Washington, DC 20593 202-372-1451

**RE: Liberty Natural Gas Port Ambrose Deepwater Port License
Docket No. USCG-2013-0363**

Dear Sirs/Madams:

The Board of Chosen Freeholders of Monmouth County strongly opposes the Liberty Natural Gas Port Ambrose Deepwater Port License.

First, we do not see a need for this facility. Two LNG import facilities in Boston Harbor have been idle for years and one of them has been closed. Import facilities in the US are now seeking permission to export. Liberty has not justified why they believe that LNG from the Magnolia facility in the Gulf and elsewhere needs to be imported into the NY area.

Second, despite Liberty Natural Gas' comment on its website that Port Ambrose will "not require a single dollar of taxpayer money, utility rate increases, or any other kind of public money to pay for the project," over the long run this is incorrect. Our

"SEPTEMBER 2d, 1609 THIS IS A VERY GOOD LAND TO FALL IN WITH AND PLEASANT LAND TO SEE."

Entry in the log of Hendrik Hudson's Ship Half Moon made after the Dutch Explorer became
the first European to come ashore in what later was known as Monmouth County

taxes go to support our Coast Guard which will be tasked with protecting Port Ambrose.

If Port Ambrose should become idle, like the two LNG import terminals off Boston, losses and ultimate decommissioning will end up being subsidized by taxpayers through deductions and other accounting methods currently in use. Any approval of this application should also hold Liberty to their pledge that no taxpayer dollars be used—even if it is to subsidize their loss should their project fail. Adequate funding should be set aside by Liberty for this eventuality.

Third, the Liberty Natural Gas application for Port Ambrose lacks transparency. We have no idea whether Liberty Natural Gas has: the financial resources to support such a large investment, to adequately insure the Port, and to pay for expenses to other damaged ships or wind turbines in case of an accident; sufficient on-hand cash reserves in case of accidents or malfunctions; and sufficient money left over to decommission Port Ambrose should it fail – financially or in any other way.

We still do not know who is behind the funding of this Port. Lastly, there is no valid explanation as to why Liberty Natural Gas wants to build a port in an area already capable of being served by domestic gas from nearby.

Fourth, New York Harbor is the largest port on the Eastern Seaboard and the third largest port in our country. We should not place a security risk between two of its main shipping channels. This project will also cause a 9-12 month slowdown of shipping traffic as channels are closed while pipeline is laid. Once commissioned, should an accident occur, despite the one mile exclusion zone for all other boating, shipping in adjacent channels would be impacted. Just the construction of this port will result in a slow-down of shipping to the Ports of NY-NJ for an extended period. The economy of our region depends upon the viability of this port.

Being so near to JFK increases the possibility that a terrorist could strike by plane. As an LNG fire could melt steel vessels nearby and impact a wind farm in the area (such as the one proposed by NYPA -LI-NYC Offshore Wind Project), this port is a major security risk. Terrorists are on record as indicating they intend to target energy production and distribution. And, large container ships and ocean going vessels take many miles to either adjust course or change speed. Our clear priority would be for an unobstructed wind farm for this area.

Fifth, we are not reassured by the DEIS statement that, "Any incident occurring at the proposed Project would rely on emergency procedures outlined in the Deepwater Port Operations Manual." No link has been provided to a redacted/summary version of this for the public to review. The DEIS says that "outcomes and safety hazards ...from a terrorist attack" are "manageable" by implementing current daily safety

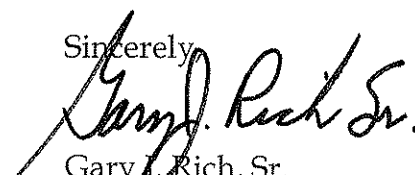
standards for unintentional spills." We are disturbed that operational reviews and approvals that would "increase safety" won't be completed until after this application is approved. They should occur before any approvals are given, not after.

Sixth, an amendment to the Deep Water Port Act in December 2012 allowed an applicant receiving a license for a Liquefied Natural Gas facility to import, export, or change from one use to the other over its lifetime, without giving public notice or allowing for further public input. There are major differences between an import and export facility; in the nature of what they are doing, in the different ways they impact the local economy and environment, and in their impact on the public health and the environmental resources of those living between the facility and the source of extraction. It is imperative that a new EIS and Public Hearing should be required upon request for a change of use.

In October 2014, MARAD proposed a change to their policy that would require any proposed Deepwater Port wanting to change from import to export of our natural gas to submit a comprehensive application, including a new Environmental Impact Statement, thus allowing for public input. MARAD should adopt this policy and it should be in effect before a final decision is made on Port Ambrose.

We strongly urge you to deny this application.

Sincerely,



Gary L. Rich, Sr.
Freeholder Director



Delaware Tribe Historic Preservation Representatives
Department of Anthropology
Gladfelter Hall
Temple University
1115 W. Polett Walk
Philadelphia, PA 19122
temple@delawaretribe.org

April 6, 2015

Tetra Tech
Attn: Sydne Marshall
1000 The American Road
Morris Plains, NJ 07950

Re: Deepwater Port License Application, Liberty Natural Gas LLC, Port Ambrose
Deepwater Port

Dear Sydne Marshall,

Thank you for informing the Delaware Tribe regarding the above referenced project and providing the Draft Environmental Impact Statement. The Delaware Tribe is committed to protecting historic sites important to our tribal heritage, culture and religion. If the identified targets within the project area cannot be avoided, further investigations are necessary to determine potential cultural significance. We look forward to receiving a copy of any future cultural resource investigations if the targets cannot be avoided. We would also like to continue as a consulting party on this project. We appreciate your cooperation and look forward to working together on our shared interests in preserving Delaware cultural heritage. If you have any questions, feel free to contact this office by phone at (609) 220-1047 or by e-mail at temple@delawaretribe.org.

Sincerely,

Blair Fink
Delaware Tribe Historic Preservation Representatives
Department of Anthropology
Gladfelter Hall
Temple University
1115 W. Polett Walk
Philadelphia, PA 19122



Albert F. Pennisi, President
Terri Thomson, First Vice President
Mayra DiRico, Treasurer
Vincent Petraro, Secretary
Jack Friedman, Executive Director

75-20 Astoria Boulevard, Suite 140
Jackson Heights, NY 11370
P: 718.898.8500
F: 718.898.8599
info@queenschamber.org

December 16, 2014

The Honorable Andrew M. Cuomo
Governor of New York State
NYS Capitol Building
Albany, New York 12224
Tel: 518-474-8390

Re: Support for Port Ambrose deepwater LNG port

Dear Governor Cuomo:

The Queens Chamber of Commerce, representing almost 1,000 members committed to improving the quality of life in our borough, writes to express support for the proposed Port Ambrose deep water port project, which aims to expand access to and lower the price of natural gas for the downstate region. The project is currently under federal review under U.S. Coast Guard identification number 2013-0363-1066. We hope our comments earn your support for the project as well.

The Queens Chamber of Commerce recognizes the growing challenges to meeting demand for heating during the winter. It is our belief that the Port Ambrose project will provide safe, clean, economically beneficial, and timely relief to Greater New York's projected heating fuel supply shortage due to system constraints.

The Port Ambrose Project is safe and clean: Built on the Atlantic Ocean floor almost 20 miles off the NYC shoreline, Port Ambrose will be invisible from shore, in compliance with all safety requirements, and built to sustain hurricane conditions. Furthermore the fuel it carries, LNG, is significantly cleaner to burn than the coal and oil that comprises much of the "fall back plan" when natural gas demand exceeds supply for heat and power production.

The Port Ambrose Project is economically beneficial: according to ICF International, the added capacity is expected to reduce prices four percent, saving New Yorkers \$325 million annually. No public money will be spent on the project, which will create 600 jobs and generate \$90 million in regional economic activity.

Finally, the Port Ambrose Project will deliver most of its fuel when it is needed most – in the depths of winter or sweltering heat of summer, when domestic supply of natural gas is inadequate. Thus it poses no competitive challenge to existing suppliers, while providing



Albert F. Pennisi, President
Terri Thomson, First Vice President
Mayra DiRico, Treasurer
Vincent Petraro, Secretary
Jack Friedman, Executive Director

75-20 Astoria Boulevard, Suite 140
Jackson Heights, NY 11370
P: 718.898.8500
F: 718.898.8599
info@queenschamber.org

downstate New York with potentially life-saving heat during the coldest days of the year or dog days of summer.

Energy diversity in the service of New Yorkers has been a hallmark of your administration's energy policy. For this reason, the Queens Chamber of Commerce is hopeful that you too support the Port Ambrose project.

Thank you for your time and considering my comments on this issue.

Sincerely,

A handwritten signature in cursive script that reads 'Jack Friedman'.

Jack Friedman, Executive Director
Queens Chamber of Commerce

CC: Richard Kaufmann, Chairman of Energy and Finance for New York

December 31, 2014

Department of Transportation
Docket Management Facility, West Building
Ground Floor, Room W12-140
1200 New Jersey Avenue SE.
Washington, DC 20590-0001.

Re: Support for Port Ambrose deepwater import terminal under Docket No. USCG-2013-0363

To whom it may concern:

As Chairman of the Queens Chamber of Commerce Energy Committee, I am writing to express support for the proposed Port Ambrose deep water port project to expand access to natural gas for downstate New York. The project is currently under federal review under U.S. Coast Guard identification number 2013-0363-1066.

Last year, New York, along with many other states, felt the effects of the polar vortex. The U.S. Energy Information Administration confirmed that pipeline constraints contributed price spikes in natural gas markets, which set records for the highest prices in history. As a result, New York consumers were left with an average 25 percent increase in their monthly gas bills. This hurts everyone's bottom line, especially businesses seeking growth opportunities.

The Port Ambrose project will place downward pressure on prices during peak demand by adding supply when it is needed most. ICF International found that the new import terminal will help the region realize over \$300 million in cost savings on high demand days. These benefits can be achieved promptly as the project is designed to tie into existing pipelines on the sea floor, importing fuel when it is needed most.

On-time supply is essential for any business. For example, if inventory for "President's Day" sales run out of stock, product scarcity typically causes the price of the hot item to become more expensive. When the item becomes available to meet demand, prices tend to fall and the product flies from the shelf. Applying this logic to Liberty Natural Gas' on-time-supply delivery model, it will keep the gas transmission system full of additional supply to meet demand. Logistically, this dynamic will help suppress price spikes, bolster reliability, and improve system resiliency.

For the above reasons, we are hopeful that you move forward with the Port Ambrose project.

Thank you for your time and considering my comments on this issue.

Sincerely,

Thomas J. Grech
Chairman, Queens Chamber of Commerce Energy Committee

cc: New York Governor Andrew Cuomo
Richard Kauffman, Chairman of Energy and Finance for New York



Albert F. Pennisi, President
Terri Thomson, First Vice President
Mayra DiRico, Treasurer
Vincent Petraro, Secretary
Jack Friedman, Executive Director

75-20 Astoria Boulevard, Suite 140
Jackson Heights, NY 11370
P: 718.898.8500
F: 718.898.8599
info@queenschamber.org

January 6, 2015

Commandant (CG-OES-4)
Deepwater Ports Standards Division
U.S. Coast Guard Stop 7509
2703 Martin Luther King Jr. Ave SE
Washington, DC 20593-7509

RE: Liberty Natural Gas, LLC, Port Ambrose Project, Docket: USCG-2013-0363

Attn: US Coast Guard

I am writing on behalf of the Queens Chamber of Commerce and our 1,000 member businesses to express our support and ask you to approve Liberty Natural Gas' (Liberty) Port Ambrose Project. This Project will soon come to a decision that greatly affects our state. For the past few months, I have followed the developments of this project through the USCG Deepwater Port Act licensing process.

The Queens Chamber supports this project after careful consideration because of the economic benefits it will have in the region including, but certainly not limited to, the bringing of over 800 construction related jobs, the spending of over \$90 million dollars of goods and services in our local economy and an annual operating budget of \$20 million on permanent and contract service jobs as well as revenues generated by taxes.

Most importantly is the Project's ability to introduce competitively priced natural gas into the system at periods of peak demand, which drives down and stabilizes costs which directly affects consumers both in the lowering their costs for natural gas and electricity.

Our position is that Port Ambrose is a safe and environmentally friendly infrastructure project that has very low environmental impact and void of public hazards due to its location several miles offshore. Natural gas is a clean burning and predictable fuel source.

The importance in approving a project like Port Ambrose has never been more evident after this year's excessively cold and prolonged winter season.

Sincerely,

A handwritten signature in black ink that reads 'Jack Friedman'. The signature is fluid and cursive, with the first name 'Jack' being more prominent than the last name 'Friedman'.

Jack Friedman
Executive Director



16613
March 17, 2015

Jason M. Goldstein
Chief Operating Officer
Liberty Natural Gas, LLC
51 John F. Kennedy Pky., Suite 309
Short Hills, NJ 07078
Docket#: USCG-2013-0363

Dear Mr. Goldstein:

By notice provided in this letter, and for the reasons set forth below, the Coast Guard (USCG) and Maritime Administration (MARAD) have determined that in order to complete the Port Ambrose deepwater port application Final Environmental Impact Statement (Final EIS) and determination of financial responsibility within the statutory timeframe required by the Deepwater Port Act (DWPA) of 1974 (33 U.S.C. §§ 1501 - 1524), we must suspend the timeline ("stop clock") for processing this application.

The DWPA and its implementing regulations direct:

- A statutory timeline that requires public hearings in each adjacent coastal State to be concluded not later than 240 days after the Federal Register notice of the initial application has been published (33 C.F.R. § 148.276).¹
- Applicant assistance in gathering information necessary to the processing of its application (33 C.F.R. § 148.107).
- Compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. §§ 4321 – 4370f) (33 C.F.R. § 148.702).²
- A determination of an applicant's financial responsibility. (33 C.F.R. § 148.105).³

In response to public request, MARAD extended the Draft EIS public comment period, normally 45 days, to 90 days (80 FR 5883, February 3, 2015). The Draft EIS comment period concluded March 16, 2015.⁴

However, we still lack information necessary to complete development of the Final EIS and make a determination of financial responsibility. Therefore, for the reasons set forth below, the Coast Guard and MARAD have determined that another stop clock is required.

- During the Draft EIS public comment period, we received 827 docket postings which total over 10,000 public comments (including form letters and petition signatories). This number may

¹ The Port Ambrose Notice of Application was published on June 14, 2013. The clock was stopped for the first time on October 21, 2013 (day 129) to address data gaps and additional analysis (extended by letter correspondence of March 7, 2014). The clock restarted when the Federal Register Notice of Availability (NOA) of the Draft EIS published on December 16, 2014.

² Scoping meetings were conducted in New York and New Jersey on July 9 and 10, 2013. The Draft EIS published December 16, 2014 and public meetings were conducted in New York and New Jersey on January 7 and 8, 2015.

³ Letter from MARAD to Liberty Natural Gas dtd February 24, 2015 (see www.regulations.gov, Docket # USCG-2013-0363-1472).

⁴ March 16 was day 219 of the 240 day clock.

grow as comments continue to post, including Federal, State, and Local agency comments, , Due to the substantial public and governmental interest in this project, we have an affirmative obligation to ensure all reasonable comments are properly considered and responded to. It is our opinion that 21 days does not provide sufficient time to properly address these comments and incorporate them into the Final EIS. Also, even if 21 days were sufficient to process the comments, we must ensure the public has sufficient time to review the Final EIS prior scheduling of the final hearings.

- By notice of March 10, 2015, the U.S. Army Corps of Engineers now requires a fifteen foot pipeline burial depth through the Ambrose Anchorage Area versus the seven foot depth analyzed in the Draft EIS. Additional time is needed to assess the effect of this change and what, if any, data requirements will need to be provided in order to assess the environmental impact this new requirement may have.
- Information related to the Clean Air Act-General Conformity analysis is still being compiled and analyzed. It must be reviewed by the U.S. EPA and included in the Final EIS.
- Liberty's response to the MARAD letter of February 24, 2015 on financial responsibility data requirements is due March 30, 2015. While not part of the Final EIS, receipt of this information is critical in the overall application review and must be received and analyzed prior to the final hearings and issuance of the Maritime Administrator's Record of Decision.

This stop clock is effective from March 17, 2015 until such time as the USCG and MARAD receive the substantive data and the availability of the Final EIS/notice of Final License Hearing is noticed in the Federal Register.⁵ Please be advised that we may request additional information as our analysis continues. Every effort will be made to provide data requests to you as soon as possible to minimize the impact to the schedule. Our goal is to develop a Final EIS that satisfies both public and governmental agency requirements.

We appreciate Liberty's efforts in working with us to ensure that a technically sound Final EIS is completed and the public, the Governors of each adjacent coastal State and the Maritime Administrator have the information they need to make responsible judgments on the Port Ambrose application. If you have any questions, please contact Mr. Roddy Bachman, USCG, at (202) 372-1451; Roddy.C.Bachman@uscg.mil; or Mr. Wade Morefield, MARAD, at (202) 366-7026; Wade.Morefield@dot.gov.

Sincerely,



CURTIS E. BORLAND
Attorney Advisor
U.S. Coast Guard
By direction



YVETTE M. FIELDS
Director, Office of Deepwater
Ports Licensing and Offshore Activities
Maritime Administration

⁵ While Coast Guard regulations allow for setting a deadline to receive the information (see 33 C.F.R. § 148.107), we decline to do so in this case. It is our opinion that the public's interest is best served by ensuring we have received, analyzed, and incorporated all of the required environmental impact and financial responsibility information prior to publication of the Final EIS and scheduling of final license hearings.

From: [Smolenski, Frank](#)
To: [Kispert, Kevin A \(DEC\)](#)
Cc: [Little, William g \(DEC\)](#); [Bachman, Roddy C CIV](#); [McKittrick, Bradley CIV](#); [Naomi J Handell \(Naomi.J.Handell@usace.army.mil\)](#); [Jason M. Goldstein \(jgoldstein@libertynaturalgas.com\)](#); [Daron Threet \(daron.threet@hklaw.com\)](#)
Subject: Port Ambrose Project; DEC# 1-2820-06425/00001
Date: Wednesday, March 11, 2015 3:41:04 PM
Attachments: [Port Ambrose 401 WQC Withdraw-Resubmit 20150309.pdf](#)

Dear Mr. Kispert:

On behalf of our client, Liberty Natural Gas, LLC (Liberty), we submit the attached request letter for withdrawing and resubmitting the Section 401 Water Quality Certification (WQC) Application to the New York State Department of Environmental Conservation (NYSDEC) for Liberty's Port Ambrose Project (Project). This action is being taken in response to NYSDEC's request for additional time to comply with the timeframes by which requests for certification are to be approved or denied as set forth in Section 401 of the Clean Water Act (CWA), and in order to allow the NYSDEC to coordinate the consideration of this application with other permit applications for the proposed Project. A hardcopy of this letter was delivered to you at your office in Stony Brook, NY earlier today.

Thank you for your assistance in this matter. Please feel free to contact me at 732.564.3611 if you have any questions or if there is a need for additional information or actions.

Frank J. Smolenski

Senior Program Manager

Environment

D: 732-564-3611 M: 609-206-5078

Frank.Smolenski@aecom.com <<mailto:Frank.Smolenski@aecom.com>>

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P Please consider the environment before printing this e-mail

Mr. Kevin Kispert
NYSDEC - Environmental Permits
50 Circle Road
Stony Brook, NY 11790-3409

March 9, 2015

Re: **Withdrawal and Resubmittal of Section 401 Water Quality Certification Application
Port Ambrose Project
Liberty Natural Gas, LLC
DEC# 1-2820-06425/00001**

Dear Mr. Kispert:

On behalf of our client, Liberty Natural Gas, LLC (Liberty), we are simultaneously withdrawing and resubmitting the Section 401 Water Quality Certification (WQC) Application to the New York State Department of Environmental Conservation (NYSDEC) for Liberty's Port Ambrose Project (Project). This action is being taken in response to NYSDEC's request for additional time to comply with the timeframes by which requests for certification are to be approved or denied as set forth in Section 401 of the Clean Water Act (CWA), and in order to allow the NYSDEC to coordinate the consideration of this application with other permit applications for the proposed Project.

On April 3, 2014, Liberty submitted a Joint Application to the U.S. Army Corps of Engineers (USACE) for authorization under Section 10 of the Rivers and Harbors Act and Section 404 of the CWA and to the NYSDEC to satisfy the requirements for obtaining a permit for Excavation or Placement of Fill in Navigable Waters and a Section 401 WQC for the proposed Project. Liberty's withdrawal and re-submittal herein is expressly limited to its request for WQC from the NYSDEC under Section 401 of the CWA. The April 3, 2014 submission date remains unchanged for other applications to NYSDEC and for Liberty's application to the USACE for authorization under Section 10 and Section 404.

Thank you for your assistance in this matter. Your ongoing processing of this application, along with the other application, is greatly appreciated. Please feel free to contact me at 732.564.3611 if you have any questions or if there is a need for additional information or actions.

Sincerely,



Frank J. Smolenski
Project Director, Environment
Frank.Smolenski@aecom.com

cc:

Mr. William Little, NYSDEC
Mr. Roddy C. Bachman, US Coast Guard
Mr. Brad McKittrick, US Coast Guard
Ms. Naomi Handell, US Army Corps of Engineers (NAN-2012-01138-EHA)
Mr. Jason M. Goldstein, Liberty Natural Gas LLC.
Mr. Daron Threet, Holland & Knight